

April 14, 2009



TRANSCRIPT

April 14, 2009

MONTGOMERY COUNTY COUNCIL

PRESENT

Councilmember Phil Andrews, President

Councilmember Roger Berliner, Vice President

Councilmember Marc Elrich

Councilmember Nancy Floreen

Councilmember George Leventhal

Councilmember Valerie Ervin

Councilmember Michael Knapp

Councilmember Duchy Trachtenberg

April 14, 2009



1 COUNCIL PRESIDENT ANDREWS:

2 Good morning, everybody, and welcome to a meeting of the County Council. We're sorry
3 to keep you waiting. And we're glad that you're here. We're going to begin with an
4 invocation from Reverend Ron Foster of the Bethesda United Methodist Church.
5 Reverend Foster. Please join me in standing.

6
7 RON FOSTER:

8 Let us pray. O gracious God, we give you thanks for all the blessings and the
9 opportunities that will be ours today. We pray for the County Council and for the work that
10 you've entrusted to them. In these difficult economic times, we pray that you would give
11 them clear vision so that they would remember core priorities and the most vulnerable--
12 the poor, the elderly, our children. Give them the courage to make difficult decisions for
13 the common good because we all know too well the easy path of least resistance. We
14 pray that you'd give them deep listening, deep respect for each other, that you would
15 guide them in everything that they do and give them a sense of humor to keep everything
16 in perspective, too. May they do justice, may they love kindness, and may they walk
17 humbly as they serve you and our community. Amen.

18
19 COUNCIL PRESIDENT ANDREWS:

20 Thank you, Reverend Foster, for the invocation. All right. We have three presentations this
21 morning to recognize outstanding work by members of our community, and the first
22 presentation will be a proclamation in recognition of the participants of the AFFIRM
23 program, and Councilmember Valerie Ervin will do the honors.

24
25 COUNCILMEMBER ERVIN:

26 Good morning, everyone. Why don't you all come up and stand behind me? It's my real
27 honor and pleasure this morning to introduce you to a new nonprofit to Montgomery
28 County, and they are called AFFIRM. And AFFIRM works with young women from our
29 county, and they develop, I think, a great program for leadership, and they have done a lot
30 of work here on wellness, promoting a healthy mind, body, and spirit. They work on a
31 career and workforce development. They have a college fair and many guest speakers,
32 and they send the young ladies on life-enriching field trips and many other activities that
33 they promote here in Montgomery County. So they just got to Montgomery County back
34 in--a year ago, last year. So I want to have the executive director come up and say a little
35 bit about what the program does and why it's important for you to be in Montgomery
36 County.

37
38 LUDLEY HOWARD:

39 Good morning. My name is Ludley Howard, and I'm the CEO and president of Pride Youth
40 Services, and we're here today to acknowledge our AFFIRM program, which stands for
41 the Adolescent Female Forum to Inspire, Respect, and Motivate. And this particular

April 14, 2009



1 program is funded by the Montgomery County Collaboration Council, and what we do is
2 work with our young ladies--and it's pretty much in our acronym--to affirm their inner and
3 outer beauty, to affirm their many talents and skills, and to basically help them and provide
4 them with support to be productive citizens within our society. So we are so thankful to be
5 here today, and I really want to appreciate all the young ladies who have made our
6 program a complete success, as well as my staff who works with them. And we're just
7 very happy to be honored today.

8
9 COUNCILMEMBER ERVIN:

10 Thank you very much. I really am glad because they're located in Wheaton, which is in the
11 district that I represent. So I am going to read this proclamation, and I want to ask all the
12 young women what high schools they're from. Are you all from one high school or from
13 many? Go down--you start. Where are you--what high school do you go to?

14
15 UNKNOWN SPEAKER:

16 I'm a staffer.

17
18 COUNCILMEMBER ERVIN:

19 You're a staffer? Oh, my gosh! She's-- You know, I'm getting so old I can't tell how old
20 people are.

21
22 UNKNOWN SPEAKER:

23 I'm from John F. Kennedy High School.

24
25 COUNCILMEMBER ERVIN:

26 Kennedy High School.

27
28 UNKNOWN SPEAKER:

29 Kennedy High School.

30
31 COUNCILMEMBER ERVIN:

32 Kennedy.

33
34 UNKNOWN SPEAKER:

35 Kennedy.

36
37 COUNCILMEMBER ERVIN:

38 Kennedy.

39
40 UNKNOWN SPEAKER:

41 Northwood.



April 14, 2009

1
2 COUNCILMEMBER ERVIN:
3 Northwood?

4
5 UNKNOWN SPEAKER:
6 Wheaton High School.

7
8 COUNCILMEMBER ERVIN:
9 Wheaton.

10
11 UNKNOWN SPEAKER:
12 Wheaton.

13
14 COUNCILMEMBER ERVIN:
15 Wheaton. Wheaton. OK. Well, congratulations to all of you, so I will read the proclamation.
16 "Whereas, the Adolescent Female Forum to Inspire, Respect, and Motivate program is a
17 countywide initiative established by Pride Youth Services, Inc., whose mission is to
18 positively influence and improve the social, emotional, and cognitive development of
19 young women ages 13 to 18 by providing resources to equip them with the confidence
20 and skills essential to making healthy and positive choices as they deal with life's
21 challenges; and whereas, the AFFIRM program was established to improve outcomes for
22 young women so that they can make decisions that will lead to greater academic
23 achievement and opportunities, increase access to positive role models and life
24 experience, and decrease the probability of involvement in gang-related behavior and/or
25 referral to the juvenile justice system; and whereas, the young ladies of AFFIRM are
26 involved in a variety of programs that challenge them to think about decisions they have
27 made in the past and how they can use experiences to help shape healthy goals for their
28 future; and whereas, Ludley Howard, CEO and president of Pride Youth Services, and
29 Veronica Stroman, Latisha Adu?????, and Victoria Pediqua?????, facilitators of AFFIRM
30 at the Wheaton Community Center, have been working hard to ensure that the young
31 women--in particular, young African-American women--have the necessary resources to
32 help them in life; and whereas, the Montgomery County Council celebrates the exemplary
33 accomplishments of these women and encourages them to keep up the great work; now
34 therefore be it resolved that the Montgomery County Council recognizes the outstanding
35 efforts of the AFFIRM program and its impressive achievements to help build self-
36 confidence, self-worth, and a sense of accomplishment in young women. Presented on
37 this fourth day-- fourteenth day of April in the year 2009, signed by Council President Phil
38 Andrews." So thank you all very much and congratulations. So I will present this to you.
39 I'm going to ask anyone to come up and speak about the program. I'll pick someone. How
40 about you? You're looking down, so I'm picking you. Tell us your name and what school
41 you're in.

April 14, 2009



1
2 MONIQUE ROJO:????? I'm Monique Rojo?????, and I attend John F. Kennedy High
3 School. And what I've learned about this program is that it builds up our self- esteem. We
4 respect our elders, and...

5
6 COUNCILMEMBER ERVIN:

7 That's good. Respecting elders is very good. Anything else you want to add? OK. Anyone
8 else? You look like you really want to say something. OK. OK, well, we're going to take
9 some pictures now, so why don't you come up a little closer to the microphone and sort of,
10 like, get--

11
12 NEIL GREENBERGER:

13 Make two rows.

14
15 COUNCILMEMBER ERVIN:

16 Two rows.

17
18 NEIL GREENBERGER:

19 Less spread out.

20
21 COUNCIL PRESIDENT ANDREWS:

22 Thank you, Councilmember Ervin, and congratulations to all the participants of the
23 AFFIRM program. Our next presentation will be a proclamation in recognition of Dr.
24 Shawn Joseph, Roberto Clemente Middle School principal. And he is selected as the
25 Middle School Principal of the Year, and Councilmember Mike Knapp will do the honors.

26
27 COUNCILMEMBER KNAPP:

28 Well, we just heard of a great program with our students, and we have an opportunity and
29 occasion very often here to recognize our students' success, both in academics and
30 athletics. The important thing, though, to recognize for us is, those students are
31 successful because they have good leaders, and we have many, many good leaders
32 throughout our school system, but today we are recognizing one particular one, Dr.
33 Shawn Joseph, who is the principal at Roberto Clemente Middle School. Have you been
34 there four years?

35
36 SHAWN JOSEPH:

37 Four years.

38
39 COUNCILMEMBER KNAPP:

40 Four years. Dr. Joseph has taken a school that was a very solid neighborhood middle
41 school, and in his four years, has taken this and turned it into a thriving, vibrant learning

April 14, 2009



1 community that engages children from throughout the upcounty, because it also houses
2 the upcounty middle school magnet program and has just done a fabulous, fabulous job.
3 And so it's a great opportunity today to recognize and remember that it is the leaders who
4 are out there encouraging and poking and provoking and making sure our students are
5 doing what they can and know what they need to do to be successful in the long run. And
6 it is my distinct pleasure today to be able to recognize Dr. Joseph with this proclamation.
7 "Whereas, Dr. Shawn Joseph, principal of Roberto Clemente Middle School in
8 Germantown, has been named the 2009 Maryland Middle Level Principal of the Year and
9 will represent Maryland in the MetLife National Association of Secondary School
10 Principals National Principal of the Year program; and whereas, the Met Life NASSP
11 National Principal of the Year Program recognizes outstanding middle level and high
12 school principals and annually honors secondary school principals who have succeeded
13 in providing high-quality learning opportunities for students and have demonstrated
14 exemplary contributions to the profession; and whereas, Dr. Joseph and his staff have
15 reorganized the school day to create additional time for instructional council to learn and
16 reflect and share best practices and have instituted a student advisory period to give
17 students an opportunity to be retaught content that they have not yet mastered; and
18 whereas, under Dr. Joseph's leadership, Clemente has increased the number of grade-A
19 students in algebra or higher from 45% in 2004 to 87.7% in 2008, while MSA scores also
20 have increased significantly, most notably in mathematics; and whereas, Dr. Joseph
21 meets with each of his students at least once per month to discuss an aspect of pride and
22 what it means to the students academically, prompting one former student to note that "his
23 energy propelled me to thrive at Roberto Clemente," his efforts have generated the
24 ultimate product--successful students; and whereas, Dr. Joseph exemplifies the best of
25 Maryland's principals who are committed to academic excellence for students and
26 unwavering support for teachers, parents, and the people of Montgomery County; now,
27 therefore, be it resolved that the County Council of Montgomery County, Maryland, hereby
28 proclaims congratulations to Dr. Shawn Joseph for being named the 2009 Maryland
29 Middle Level Principal of the Year. Signed this day, April 14, 2009. Phil Andrews, Council
30 President."

31
32 SHAWN JOSEPH:

33 Thank you.

34
35 COUNCILMEMBER KNAPP:

36 Thank you very much. Well done. Now turn it over to Dr. Joseph to hopefully inspire us as
37 he does his students.

38
39 SHAWN JOSEPH:

40 Sure. Good morning, everyone. It's humbling, being principal at Roberto Clemente Middle
41 School. I have the best job in Montgomery County, I really do --I think best job in America.



April 14, 2009

1 At Clemente, we talk about PRIDE, which is personal responsibility for academic
2 achievements, respectful interactions among staff and students, intelligence is effort
3 based, diversity is celebrated, and ensuring a safe, positive learning environment. It's one
4 thing to say it, but it's another thing to really believe it, and as we walk into that school of
5 1,185 students every day, we keep PRIDE as our focus. And you can't receive awards
6 without having an award-winning staff and an award-winning community. And we really
7 have that in Germantown at Roberto Clemente Middle School. So I'm honored, and it's a
8 blessing to be at that school, so thank you.

9
10 COUNCILMEMBER KNAPP:

11 Thank you very, very much. Congratulations, and keep up the great work.

12
13 SHAWN JOSEPH:

14 Thank you.

15
16 COUNCILMEMBER KNAPP:

17 Hold on.

18
19 COUNCIL PRESIDENT ANDREWS:

20 Thank you, Councilmember Knapp, and congratulations again to Dr. Shawn Joseph. Our
21 last presentation of the morning will be a presentation in recognition of April as the Month
22 of the Young Child, and Councilmember Trachtenberg, Councilmember Floreen, and I
23 think Councilmember Ervin are all going to do the honors. And we have a number of
24 representatives from different agencies who do a lot of good work with young children,
25 and I know they will be introduced by our Council colleagues.

26
27 COUNCILMEMBER TRACHTENBERG:

28 OK. We'll see if it works. Well, I'm here this morning--it's my distinct pleasure, and I'm
29 joined by Councilmember Floreen to acknowledge that April this year is the Month of the
30 Young Child. And I'm going to be presenting a proclamation which was actually presented
31 officially back the beginning of April to a number of partners in the community. And I would
32 ask before I read anything that we actually have some introductions of who's standing
33 behind me. I know Brenda Peterson is here from Tree House and Debbie Shepard from
34 Early Childhood Services over at HHS, and I wonder if we could have some names of the
35 other staffers that are here with us.

36
37 MARIA ROSARIO:

38 Maria Rosario, Children's Resource Center.

39
40 COUNCILMEMBER TRACHTENBERG:

41 Welcome this morning.

April 14, 2009



1
2 BARBARA WARMAN:

3 Barbara Warman, director of the Child Care Resource and Referral Center.

4
5 COUNCILMEMBER TRACHTENBERG:

6 Hi.

7
8 KATHY LALLY:

9 Kathy Lally with the Collaboration Council.

10
11 GREG STEVENS:

12 And Greg Stevens, program manager at Early Childhood Services.

13
14 COUNCILMEMBER TRACHTENBERG:

15 OK. Great. Thank you for joining us. Again, you know, children are very much the future,
16 and they very much bring communities together, and it's really in that spirit that this
17 proclamation is made this morning. And I know Nancy has brought a little bit of a prop --
18 actually, a doll that was given out at the April 1 event that you attended on behalf of the
19 Council.

20
21 COUNCILMEMBER FLOREEN:

22 Yes. Thank you, Duchy, and if I could speak to this, we've acquired one of these for each
23 of the Councilmembers, which is a reminder of why we do all this. I'm going to read from
24 the little attachment to this child that we've brought with us. "These are all our children.
25 We will all profit by or pay for whatever they become." That's from James Baldwin. And let
26 me tell you a little bit about Peter Miguel. "Peter Miguel is my name. I'm 2. My new baby
27 brother is 10 months old, and sometimes my mom is so busy with him that she forgets
28 about me. I don't know how to get dressed, so some days I wear my pajamas all day. It's
29 hard when I'm hungry or thirsty, but my mom tries hard. I wish she had more time for me."
30 And this is a little statement for the Network for Children. We have their information here.
31 But some facts that everyone needs to know--Montgomery County has the fourth-highest
32 poverty rate in the state of Maryland. 24,000 children--I think it's actually more than that--
33 are eligible for free or reduced price lunches. 21% of the county's 200,000 children are
34 latchkey children, having no one home after school. There was a 25% increase--and this
35 is only between '92 and '94--in children waiting for public outpatient mental-health
36 services. Most devastating of all, 425 rapes were committed against juveniles in 1994,
37 and we--we're worried about where that number is today. We have serious issues in our
38 child care community, and these are the children we need to help. I want to thank you to
39 the--say a good thank you to the providers of these services, to the folks who are
40 committed to helping our children and to our future.

April 14, 2009



1 COUNCILMEMBER TRACHTENBERG:

2 Thank you, Nancy. I'm going to read the proclamation at this time, and then after we've
3 done, perhaps, a photo or two, I wondered if one or two of you would like to get up and
4 make some remarks--just briefly, I've been instructed by the Council president. "Whereas,
5 Montgomery County government is committed to the pursuit of the growth and well-being
6 of all children to prepare them to live and learn in our diverse community; whereas,
7 learning begins at birth and the first five years of a child's life are critical to their growth in
8 language, cognitive concepts, social, and emotional development; whereas, the
9 Montgomery County Early Care and Education Congress will continue its work to ensure
10 that all children will enter kindergarten ready to learn; and whereas, each year in April,
11 communities across this country focus attention on young children, and this year bring the
12 national theme to bear--bring communities together for children; children bring
13 communities together; now, therefore, do we the County Executive and the County
14 Council, hereby proclaim the month of April 2009 as the Month of the Young Child in
15 Montgomery County, and we ask our community to work together to achieve the goal that
16 all children will enter school happy, healthy, and learning every day. We envision that
17 young children will reach their full potential through parent and stakeholder engagement
18 and partnerships to provide high-quality early care and education experiences from birth
19 onward." And it's signed by Isaiah Leggett, by Phil Andrews, and Dr. Weast, our
20 superintendent, the president of the School Board, Shirley Brandman, and Debbie Van
21 Brunt, the chair of Collaboration Council. And again, we want to recognize that this indeed
22 is the Month of the Young Child and recognize the extraordinary efforts of all of you on
23 behalf of children, as well.

24
25 UNKNOWN SPEAKER:

26 Would somebody like to say something?
27

28 COUNCILMEMBER FLOREEN:

29 Why don't you let Valerie make a comment?
30

31 COUNCILMEMBER TRACHTENBERG:

32 OK. Then we'll do it.
33

34 COUNCILMEMBER ERVIN:

35 This is really an exciting moment, I think, because here in Montgomery County, we have
36 taken big, giant leaps forward in terms of our commitment to young children, from the
37 work that we're all doing on pre-K for all to the work that all of the people standing behind
38 me do each and every day here in Montgomery County for all people's children, and we
39 couldn't be more proud to be here standing with them.
40

April 14, 2009



1 DEBBIE SHEPARD: I just want to thank the Council for this wonderful honor, the
2 proclamation, and just mention that in Montgomery County, we're all partners for early
3 childhood. And not all of our partners could be here today, but we really appreciate all our
4 partners. Last year, we delivered over 230,000 services to parents and caregivers of
5 young children, and we're very excited about that. We also want to let you know that the
6 Kindergarten Assessment Scores that just came out from Maryland State Department of
7 Education has documented that 75% of our young children entering kindergarten were
8 fully ready-- those who came out of childcare centers, those who came out of pre-K and
9 public schools. So working together, we are really accomplishing what we would like to.
10 Thank you very much.

11
12 COUNCILMEMBER FLOREEN:
13 All right.

14
15 COUNCILMEMBER TRACHTENBERG:
16 OK. We'll do a photo.

17
18 COUNCILMEMBER FLOREEN:
19 Group shot. This is a big deal.

20
21 UNKNOWN SPEAKER:
22 Got to get the doll in.

23
24 NEIL GREENBERGER:
25 Keep smiling for me. Last one. Thank you.

26
27 COUNCILMEMBER FLOREEN:
28 Thanks for coming by. Well done. Thank you.

29
30 COUNCIL PRESIDENT ANDREWS:
31 Thank you, Councilmembers Trachtenberg, Floreen, and Ervin for doing the honors, and
32 thanks to all of our representatives and those out there who weren't here today who work
33 with young children to help them have a bright future. We're now going to go on to
34 General Business. Miss Lauer, any--and I will announce, actually, that we are going to
35 defer Bill 7-09 until next Tuesday. And I spoke with Councilmember Knapp, who is the
36 lead sponsor of that, and we will put that on the agenda for the 21st. And we're going to
37 move up the Item 12, which is the update on PHED Committee deliberations on recreation
38 programs. We're going to move that up to immediately after the Consent Calendar.
39 Councilmember Knapp has to leave for Council business shortly after that. Miss Lauer,
40 any other changes?



April 14, 2009

1 LINDA LAUER:

2 Yeah. The only-- no more changes. We did have a couple of petitions this week. One was
3 opposing the Historic Preservation Amendment 09-1. Other petitions were received about
4 the library's budget, one for full funding, the--and then others specifically relating to the
5 Gaithersburg, Poolesville, and Quince Orchard libraries. Thank you.

6
7 COUNCIL PRESIDENT ANDREWS:

8 Thank you. All right. Next is action --approval of the minutes of March 19, 23, and 24 of
9 2009. Is there a motion to approve the minutes?

10
11 COUNCIL VICE PRESIDENT BERLINER:

12 So moved.

13
14 COUNCILMEMBER KNAPP:

15 Second.

16
17 COUNCIL PRESIDENT ANDREWS:

18 So moved by Council Vice President Berliner. Seconded by Councilmember Knapp. Any
19 comments? Don't see any. All in favor of those minutes--March 19, 23, and 24 of this
20 year-- being approved, please raise your hand. And that is unanimous among the
21 Councilmembers. Consent Calendar is next. Is there a motion for approval?

22
23 COUNCILMEMBER KNAPP:

24 So moved.

25
26 COUNCILMEMBER FLOREEN:

27 Second.

28
29 COUNCIL PRESIDENT ANDREWS:

30 So moved by Councilmember Knapp. Seconded by Councilmember Floreen. Is there any
31 discussion on the Consent Calendar? Very good. I don't see any. I'll just note that part of
32 the Consent Calendar is the reappointment of Inspector General Thomas Dagley, and this
33 would be to a second four-year term. Appreciate the good work that he has done for the
34 County in his first term. There are numerous other items on there which I will let people
35 look at, and then we will vote on the Consent Calendar. And not seeing any other
36 comments, I will ask all those in favor of the Consent Calendar to raise their hand. And
37 that is unanimous, so the Consent Calendar is approved. We're now going to go directly to
38 Item 12, which is an update of the PHED Committee deliberations on the Office of
39 Legislative Oversight report 2009-7, Organization of Recreation Programs across the
40 Department of Parks and Department of Recreation. Councilmember Knapp.

April 14, 2009



1 COUNCILMEMBER KNAPP:

2 Thank you, Mr. President, and thank you for moving things around. As I'm sure my
3 colleagues are aware-- you've received some email on this topic--in January, we received
4 an update from the-- or a report from the Office of Legislative Oversight looking at various
5 recreation programs between Department of Parks, Department of Recreation, and
6 looking at potential overlaps there. Over the past several months, the PHED Committee
7 has held a series of worksessions on the potential consolidation of some or all recreation
8 programming currently offered by Department of Parks and Department of Recreation. In
9 particular, the committee has talked about how some sort of consolidation could deliver
10 tangible benefits to the community, including a streamlined and user-friendly system of
11 recreation programs, consistent pricing and cost-recovery practices, and administrative
12 and staffing efficiencies that result in cost savings. At our last worksession two weeks ago,
13 the PHED Committee endorsed a plan for staff from the two agencies-- M-NCPPC's
14 Department of Parks and County government Department of Recreation--to jointly explore
15 an improved structure for managing rec programs. This effort would examine
16 consolidating programs or facilities into Department of Recreation or into Department of
17 Parks in order to achieve cost savings and increased programmatic operational
18 efficiencies while maintaining or improving service levels. The committee's approach
19 aligns with comments from both agencies which indicate a clear interest in improving and
20 streamlining the structure of county-funded recreation programs. On April 2, the agency
21 representatives agreed in the near future to provide the committee with a proposed
22 timeline and list of tasks that would result in a restructuring plan by October 1, 2009. The
23 written description of the joint effort will be reviewed by committee members and
24 circulated to the Council. The committee also recommends that at an appropriate point
25 after the receipt of the restructuring plan in the fall, that the Council hold a public hearing
26 on this issue before taking any final action. And that is just an update for our --for my
27 colleagues just to have a sense of where it is. I know that there has been a fair amount of
28 email on this, and I didn't want anything to kind of wait in the void for the next four or five
29 months while we're waiting for the departments to report back to us. And so if you have
30 further questions, don't hesitate to contact me or members of the committee. I would also
31 turn to Councilmember Elrich, who actually generated the OLO report and has been kind
32 of heavily engaged in this discussion within the committee, and see if he has any
33 additional remarks to make at this time.

34
35 COUNCIL PRESIDENT ANDREWS:

36 OK. Councilmember Elrich.

37
38 COUNCILMEMBER ELRICH:

39 I just wanted to let my colleagues know that we had a very productive discussion in
40 committee and that both Park and Planning and the Rec Department were able to say that
41 they were going to work together, that they understood the need for change, that they

April 14, 2009



1 would work to bring us back something that would, in fact, be different and be better. And I
2 thought "different" and "better" were good and was encouraged by the fact that both sides
3 had said they would sit down and they would make progress on this. So I think that after
4 all the years of trying to do something, this will be the year that we crack this nut.

5
6 COUNCILMEMBER KNAPP:

7 I'm certainly hopeful that that's the case. I thank Councilmember Elrich for asking for the
8 report, and I thank the committee for their efforts in this, because I think it has been--we've
9 had very, very full and lengthy discussions. The room has been occupied by many, many
10 people. They've been heavily engaged. And--but I think this is a good direction for us to
11 head, and I will keep everyone informed as we continue to move forward over the coming
12 months.

13
14 COUNCIL PRESIDENT ANDREWS:

15 OK.

16
17 COUNCILMEMBER KNAPP:

18 Thank you very much. And I would, if I could, Mr. President, since I do have to go to an
19 Emergency Preparedness Meeting for the Council of Governments, like to indicate my
20 support for Expedited Bill 6-09, Home Energy Loan Program - Establishment, when that
21 comes up for final passage, as it will shortly, and commend the sponsors for this bill. I
22 think it's a very good idea, and I think we need to get it implemented as quickly as
23 possible. And so I thank everyone very much.

24
25 COUNCIL PRESIDENT ANDREWS:

26 Thank you for your comments, and thank you for the update on the recreation program
27 organization issue. We're now going to move on to Item 4, which is Legislative Session,
28 day number 15--introduction of bills. The first is Expedited Bill 17-09, Parking Lot Districts
29 - Use of Revenues, sponsored by Councilmembers Floreen, Knapp, Elrich, and Leventhal,
30 and myself. And public hearing is scheduled for May 5 at 7:30. I'll turn to the lead sponsor
31 of the measure, Councilmember Floreen, to see if she has any comments.

32
33 COUNCILMEMBER FLOREEN:

34 Well, I'll just say thank you to my colleagues for joining in on this as we contemplate a
35 constrained budget period in which transit, in particular, is taking some hits. It seemed
36 appropriate to at least open up some additional options to consider for transit funding. I've
37 assured the business community that this is not an effort to interfere with Urban District
38 initiatives, but if there is some loose change sitting around, we'd certainly like to use it for
39 purposes of moving people into those business districts. So that is part of the background
40 to this initiative, and I look forward to the public hearing.



April 14, 2009

1 COUNCIL PRESIDENT ANDREWS:

2 Thank you, Councilmember Floreen. And that bill is introduced. Expedited Bill 18-09 is the
3 next bill for introduction-- Personnel - Retirement - Imputed Compensation, sponsored by
4 the Council President at the request of the County Executive. A public hearing is
5 scheduled for May 5 at 7:30 P.M. And that bill is introduced. Bill 19-09 is the next bill for
6 introduction-- Board of Investment Trustees - Membership, sponsored by the Council
7 president at the request of the County Executive. The public hearing is scheduled for May
8 5, 2009, at 7:30 P.M. Without objection, that bill is introduced, as well. We'll now move to
9 bills for final reading. As I mentioned earlier, we're deferring Bill 7-09, Schools and Camps
10 - Workforce Investment Scholarship, until next Tuesday. And so the bill that we have for
11 final reading today is Expedited Bill 6-09, Home Energy Loan Program. The T&E
12 Committee is recommending approval with amendments, and I will first turn to--well, let
13 me first turn to the Vice President of the Council, who is the lead sponsor of the measure,
14 and then I will turn to the chair of the committee.

15
16 COUNCILMEMBER FLOREEN:

17 No, this is entirely Mr. Berliner's.

18
19 COUNCIL VICE PRESIDENT BERLINER:

20 Thank you, Council President, and thank you, Madame Chair. It is a privilege to bring this
21 bill to my colleagues' attention for final passage today. I want to first thank my co-
22 sponsors--Councilmember Elrich, Councilmember Ervin, Councilmember Trachtenberg--
23 and my committee colleagues-- Chair Floreen and Councilmember Leventhal. The bill
24 before us today really does so much for so many folks. It will reduce utility bills by 20% to
25 30%. It will reduce greenhouse gas emissions from our homes by 20% to 30%. It will
26 literally put money in our homeowners' pockets, and it will create green jobs. So this is
27 something that this Council can be quite proud of. It will--Montgomery County will be the
28 first county in the entire region to take this step. Our work with Congressman Chris Van
29 Hollen is such that he went forward with a national bill that he introduced in the Congress
30 that would provide federal funds for this purpose. So we've got a model here that is looked
31 to throughout the region, and for good reason. It should impose almost no cost on the
32 County because it uses federal dollars and, hopefully, private sector dollars. We met with
33 a bank recently that if we use our Energy Efficiency Block Grant money--1.2 million of it --
34 we could probably get private sector capital for something less than 3%, because these
35 loans are so secure. And if we used our dollars to pay down the interest of the private
36 sector dollars, we could have a \$10 million program, and quite frankly, our biggest
37 concern with respect to this is, this program is going to be so popular that we're going to
38 run out of dollars in a heartbeat. So another reason why we need Congressman Chris Van
39 Hollen to be successful in giving us that initial seed money, because it is a revolving fund.
40 It is as secure as it can be. The dollars come into the County, and then the dollars go out
41 to our homeowners and then are returned to the County. So if we get a federal source of

April 14, 2009



1 dollars with respect to this, we would then return the dollars to the federal treasury, as
2 well. So it's no cost, and it was among the top priorities of our County Executive's
3 Sustainability Working Group. And why? Well, one, because it is the most cost-effective
4 thing we could possibly do, and two, 33% of our greenhouse gas emissions in our County
5 come from our existing homes. And the dilemma has been for so long that we have been
6 unable to crack the barriers that stood in the way of our homeowners being able to retrofit
7 their homes. Either they didn't know what to do, or if they knew what to do, they might not
8 have the money to do it. And even if they had the money to do it, they didn't know how
9 long they'd be in their homes, so they couldn't figure out whether the investment would be
10 worthwhile. This legislation addresses each of those barriers by providing for a home
11 energy audit that will identify all the cost-effective measures that could be implemented to
12 make your home more energy efficient. And renewable energy is included as well, as long
13 as it is, quote, cost effective. So you can put on solar hot water heating. And if solar
14 thermal heating becomes available at a cost-effective price, that, too, is eligible. So we
15 can make our homes more energy efficient, we can put on renewable energy, and all of
16 these will be identified by a home energy audit. And the home energy--the results of that
17 audit? The homeowner takes that to the County, and hopefully--my own personal
18 preference would be that the County would establish a nonprofit to run this, as opposed to
19 running it itself, and it could even be our clean energy center--the Maryland Clean Energy
20 Center--that just came to Montgomery County, because they're looking to ensure that this
21 program goes statewide, and they'd be a good potential partner for us in this. And then a
22 homeowner would take the results of this home energy audit to this nonprofit and say,
23 "Cut me a check." And the County would either cut a check or would authorize this person
24 to go forward and get the work done. That detail as to whether or not the check will be cut
25 in advance or afterwards will be worked out in the regs. And I will say that--I see Mr.
26 Edwards here, and so, Mr. Edwards, we heard your desire for a longer period of time with
27 respect to implementing this program. It is a complicated program. I want to say there are
28 lots of issues to work through here. And so we gave Mr. Edwards six months. Right, Mr.
29 Edwards? And he promised to come back in six months with a fully fleshed out, ready-to-
30 go program.

31
32 COUNCIL PRESIDENT ANDREWS:

33 Let the record show he's nodding yes.
34

35 COUNCIL VICE PRESIDENT BERLINER:

36 Except with respect to that last statement. But we do have the full support of the County
37 Executive with respect to this program. Let me say that we have the full support of the real
38 estate community. We have the full support of the building industry. We have the full
39 support of the Sierra Club. I mean, I don't know how many times my colleagues have seen
40 that kind of coalition, but when you have the real estate industry, the builders, and the
41 Sierra Club all saying, "This is a good thing," I'd suggest to you that it is a good thing. So

April 14, 2009



1 we have a program here that really addresses all the issues that stood in the way of our
2 homeowners being able to take advantage of the loan, and the most important piece with
3 respect to this is, under this program, the homeowner, again, will take the cost-effective
4 measures that are identified in the audit to this nonprofit, for purpose of this conversation,
5 get a check for the work that would be done, would do--have that work done, and then it
6 would be paid for--paid back --the loan would be paid back over 15 years as a special
7 assessment on their property taxes. So the homeowner no longer has to figure out now
8 whether--how long they're going to stay in their home, because they may only be in their
9 home two years, but guess what. The cost of it goes with the next homeowner because
10 it's part of the property tax assessment. So you don't have to figure out, "Gee, will this be
11 cost effective for me to do?" The only thing you have to figure out is, "Will I save money on
12 my utility bill? Will I actually be able to put money in my pocket?" So we've been able to
13 work this out, and that's the key conceptual breakthrough-- that the loan actually runs with
14 the property. So I feel like that piece is going to really transform our approach to these set
15 of issues in a way that will bring about the results we all seek here. So, our committee
16 worked very hard on this, and I want to again thank my colleague Councilmember
17 Leventhal and the chair of the committee for their work. Amanda's excellent packet
18 identifies a number of those changes on the front page, but I really don't think there's
19 much we need to go through with respect to those changes other than we identified that
20 the County Executive and DEP will have six months to get back to us, that we heard our
21 renewable-energy community and we addressed those concerns by making all cost-
22 effective renewable automatically eligible, and if it's not a cost-effective renewable, we just
23 simply said, "Your house has to be energy-efficient before you can use these limited
24 dollars for that purpose." So we felt like we compromised on that issue appropriately. And
25 finally, there was the issue raised in committee with respect to whether or not the
26 repayment issues would pose any problems for Fannie Mae, Freddie Mac. Would it get in
27 the way of the mortgage and loaning sets of dynamics? And we have with us our excellent
28 county attorneys. We have our own attorneys. We have all looked at this very hard
29 because we took that concern seriously, and concluded that this not an issue, that it
30 should not stand in the way at all. But just to be absolutely certain, I will ask my
31 colleagues for their support for an amendment that I will offer now which would simply
32 say, look, we've asked the County Executive to take six months with respect to
33 implementing this proposal. During that six-month period of time, meet with the lending
34 industry, determine whether or not there is something that none of us see at this point in
35 time. Our own Council staff, our own County Executive's attorneys, outside attorneys--no
36 one has been able to identify an issue. Berkeley has done this exact same thing, and it's
37 not a problem. So we don't see a problem, but just to be sure, I've got an amendment that
38 says during that six-month period of time, County Executive, if you determine there's a
39 problem in any way with respect to this-- to these provisions standing in the way of
40 refinancing homes and making new loans, then you come back and report to the Council
41 and give us an alternative that would still achieve the policy objectives that we want here,



April 14, 2009

1 which is to make sure that the loan runs with the property. So with that, let me turn to
2 Amanda. If there's anything-- really, you did such a great job, I want to thank you. If
3 there's anything you feel I left out that my colleagues need to attend to...

4
5 AMANDA MIHILL:

6 No. I think you've covered all of the major issues. All of the important committee
7 amendments, as you noted, were on the front page of the Council staff packet.

8
9 COUNCIL VICE PRESIDENT BERLINER:

10 Let me turn to any of my colleagues, if they have any questions, because I...

11
12 COUNCILMEMBER FLOREEN:

13 I have a question.

14
15 COUNCIL PRESIDENT ANDREWS:

16 All right. First, let me compliment Council Vice President Berliner and the committee for
17 excellent work on this important bill. As the Council Vice President described, it is
18 complex, and a lot of thought went into it to ensure that it works the first time and provides
19 all the important benefits that he so eloquently described. I'm now going to turn to the
20 chair of the committee, and then several other colleagues have questions or comments
21 about the legislation, too. Councilmember Floreen.

22
23 COUNCILMEMBER FLOREEN:

24 Thank you very much, and I do compliment Councilmember Berliner for this initiative. He
25 just seized the moment, worked very hard with Congressman Van Hollen, and moved
26 forward an initiative that makes us a regional leader. Everyone is clamoring for this one,
27 so it's important that we get it right, and my hat's off to Roger for making that happen. So,
28 well done, Roger. Just an itty-bitty little question about that last point--there was the issue
29 of the lien and how that would be handled. I have to confess, I got a supplemental packet
30 that I think is sitting on my desk upstairs. I looked at it briefly. The only question was, Mr.
31 Berliner's language that he just addressed--that's not really legislative language, is it? Or
32 do we have that language?

33
34 COUNCIL VICE PRESIDENT BERLINER:

35 We do.

36
37 COUNCILMEMBER FLOREEN:

38 Is that what that language is in the memo?

39
40 COUNCIL VICE PRESIDENT BERLINER:

41 It is right there, Madame Chair.



April 14, 2009

1
2 AMANDA MIHILL:

3 It's on the third numbered page, and it would actually be an uncodified provision, but it
4 would be law.

5
6 COUNCILMEMBER FLOREEN:

7 OK. There you go. So that will resolve that issue. And this is sufficient to allow the
8 program to go forward but keeping our options open on this element?
9

10 AMANDA MIHILL:

11 Yes. As Councilmember Berliner noted, this is the same six-month period that the
12 Executive already has to develop the regulations.
13

14 COUNCILMEMBER FLOREEN:

15 OK. So you think it--fine. So if we had to adjust language in the bill at a later point, we'd
16 have --we'd still have to go through notice and hearing and so forth and so on.
17

18 AMANDA MIHILL:

19 Yes. It would be a new bill if the Executive came back with different options for repayment.
20 It would be a bill introduced and go through the regular bill process.
21

22 COUNCILMEMBER FLOREEN:

23 OK. I know the banking industry is very interested in this issue generally, and certainly,
24 within six months, who knows? Maybe they'll be new national rules, as well. OK, fine.
25 That's great. Thank you. That helps me understand how this will be handled.
26

27 COUNCIL VICE PRESIDENT BERLINER:

28 And I do want to acknowledge that the lending industry, obviously, in this moment in time
29 is feeling, you know, very sensitive, and clearly, I believe that during the next six months,
30 there will be plenty of opportunity for them to get familiar with this and more comfortable
31 with it, and I don't --it is not a problem. Everybody that's looked at this says it not a
32 problem, but when something comes at you new and you're at this moment in time when
33 there are so many problems in the economy, you just want to go the extra mile to make
34 sure they're comfortable. That's the intent here. Why don't I read this language to the
35 County? The Council president suggested I do so and ask for a second for it, It would say,
36 "Within six months, the Executive must, one, report to the Council if the Executive
37 believes that the repayment provisions of Section 18A-28 will unduly burden the lending
38 industry or hinder homeowners from obtaining financing to refinance or purchase a home
39 and, two, provide alternative recommendations if appropriate that would achieve the same
40 policy objective of assuring that the loan payments will be assumed by the buyer of a
41 property."

April 14, 2009



1
2 COUNCILMEMBER FLOREEN:
3 Great. Second.

4
5 COUNCIL VICE PRESIDENT BERLINER:
6 Thank you.

7
8 COUNCIL PRESIDENT ANDREWS:
9 All right. So it moved by Council Vice President Berliner. Seconded by Councilmember
10 Floreen. Any discussion on the amendment? Don't see any. OK. All in favor of the
11 amendment, please raise your hand. That is Councilmember Elrich, Councilmember
12 Trachtenberg, Councilmember Floreen, myself, Council Vice President Berliner,
13 Councilmember Ervin, and Councilmember Leventhal. It's passed 7-0. All right. There are
14 a few other lights. Councilmember Ervin is next.

15
16 COUNCILMEMBER ERVIN:
17 I want to congratulate and commend Councilmember Berliner for all of his incredible work
18 on this initiative, and I'm very happy to have co-sponsored it with him. I have a couple of
19 questions. First of all, I want to say thank you for not limiting this to owner-occupied
20 single-family homes. That was very important to me, and I look forward to collaborating
21 with you in the future on how do we extend similar benefits to multi-family owners and
22 renters. So I appreciate what you've been able to do so far. I want to draw your attention
23 to one other issue I have, and it's on page 5 about the audit. And I wasn't able to join you
24 in the committee conversation on whether or not the cost of the audit should be absorbed
25 by the program, and I really think for a lot of the people I'm talking about, the cost of the
26 audit is prohibitive. And so I'm wondering, as we move forward, we want these particular
27 homeowners and renters and other folks who may not have the opportunity to go to the
28 bank and borrow funds--if you start with having them pay for the audit, that's going to be a
29 zero-sum gain for some people.

30
31 COUNCIL VICE PRESIDENT BERLINER:
32 We appreciate your raising that. It is an issue that we grappled with, and one that I
33 believe-- hopefully, you will take some comfort in the following. PEPCO for example, has a
34 proposal before the Maryland Public Service Commission now in which they are seeking
35 authority to provide audits of a nature that would satisfy the requirements here for \$150,
36 so that rate payers as whole will be subsidizing that. Two, I believe --Amanda, correct me
37 if I'm wrong--we did address this, as well, with language that called upon the Executive to
38 say whether or not we thought that the cost of a loan--upfront cost would stand in the way.

39
40 AMANDA MIHILL:

April 14, 2009



1 There's no particular language in the bill, although it was discussed at the committee, and
2 at that time, because of the PEPCO program and such, the committee felt that it was a
3 low cost but still, I think the words that were used were, consumers would still have a
4 "moral hazard" in obtaining these audits. But there's no specific language in the bill that
5 requires anyone to look at this issue. It was just talked about in committee.

6
7 COUNCIL VICE PRESIDENT BERLINER:

8 If my colleague has any particular suggestion, what we could do, analogous to what we
9 just did on the mortgages, is that we could ask the County Executive to determine--and
10 one of the things that we had discussed in committee, I believe, was to ask DEP to
11 determine whether or not they believed that the upfront cost would act as a significant
12 barrier, and if so, to come forth with recommendations as to how to address that, and I'd
13 be happy to support such a provision if--because I do believe that--I hear you, and I think
14 it's true that if these were \$450, that would stand in the way of a lot of people, and we
15 don't want to do that.

16
17 COUNCILMEMBER ERVIN:

18 Thank you. I really appreciate that, Councilmember Berliner. And my final issue is on the
19 first page of the document--"specify that part of the purpose of this legislation is to create
20 jobs." I'm not quite sure how that's going to come back over to us in regulation, in terms
21 of, how will we--how will we make that an affirmative for the purposes of this bill? How will
22 that--how will that come back to us?

23
24 COUNCIL VICE PRESIDENT BERLINER:

25 I think the concept behind it was to recognize, as the building community has, how
26 important this is to them at this moment in time. So it was really to say, gee, we're hearing
27 from the builders as to how excited they are about this program because they have so
28 many people that are out of work in this moment and are now retooling their industry to
29 focus on energy retrofits. So the change in the bill was simply to recognize that which the
30 bill already does, which is to create an incredible demand for green jobs.

31
32 COUNCILMEMBER ERVIN:

33 Are we going to be tracking that so that we can see how we're doing?

34
35 COUNCIL VICE PRESIDENT BERLINER:

36 I think our goal with respect to this is to sort of marry this program with the Weatherization
37 program and to create a context in which we--as we had our conversation today with Mr.
38 Silverman, is to create a context in which we are leveraging all our various programs for a
39 workforce development that would train our people in Montgomery County in these green
40 jobs. That's my objective with respect to this.

April 14, 2009



1 COUNCILMEMBER ERVIN:

2 Well, I know we both serve on the Green Energy task force, so I would just like to throw
3 out on the table that we really need to have a mechanism to see how-- to count and to see
4 how we're doing. So hopefully, we'll be able to work with Executive staff to make that
5 happen.

6
7 COUNCIL VICE PRESIDENT BERLINER:

8 Amanda.

9
10 AMANDA MIHILL:

11 If I could just clarify, the issue related to the cost of the energy audit-- is that an
12 amendment to the bill or general directive to DEP?

13
14 COUNCIL VICE PRESIDENT BERLINER:

15 I would like it to be an amendment to the bill, in recognition of my colleague's concern. I
16 believe it is something that we ought to ask DEP to look at and determine whether or not
17 the upfront costs would represent a significant barrier, and if so, to report back to us on
18 their recommendations as to how to address it. If that--if I could make that motion, I would
19 appreciate a second.

20
21 COUNCILMEMBER ERVIN:

22 Second.

23
24 COUNCIL PRESIDENT ANDREWS:

25 OK. Made and seconded. All in favor? That's Councilmember Elrich, Councilmember
26 Trachtenberg, Councilmember Floreen, myself, Council Vice President Berliner,
27 Councilmember Ervin, and Councilmember Leventhal. 7-0. Very good. OK. Thank you,
28 Councilmember Ervin. Councilmember Elrich is next.

29
30 COUNCILMEMBER ELRICH:

31 Well, I want to thank Roger and the committee for getting this bill done, and I'm very
32 happy to be a co-sponsor of it. It was a lot of hard work. One of my favorite things about
33 this bill is it's way out of--way beyond symbolism and actually gets into doing things that
34 are going to matter, and I think that's-- that's really important. I mean, it's real easy to
35 make statements about what you want to do about either job creation or global warming.
36 This thing actually will do something about both, and that's good. Roger and I have talked
37 a little bit about, I think, the real need to figure out how we expand the program and that,
38 you know, the funds could be easily exhausted. I had a constituent who talked about the
39 8,000 furnaces, air conditioners, and basically HVAC systems that are replaced every
40 year, and that most of them-- you know, very few of us plan to replace our HVAC system.
41 None of us says, "I think I want to go spend \$10,000 today." It's usually you're either

April 14, 2009



1 freezing cold or you're boiling hot, and you know it's not working, and then you call
2 somebody and you want this thing done in three days, and the people who come out
3 immediately are sizing up what's your financial ability to buy a system, and this will open
4 up possibilities for systems that a lot of people would not otherwise consider and give
5 those people who are interested in doing energy-efficient installations an opportunity to
6 market something in a positive way and to put that into the calculus that a homeowner is
7 going to have to make. And when you think that you're doing 8,000 systems a year, in 10
8 years, that's 80,000 systems. That's a really significant chunk of households in
9 Montgomery County that already exist. And, you know, we can focus on the houses that
10 might be built and hope that they're going to be built to a better standard, but somebody
11 said that 10 years from now--90% of the houses that exist 10 years from now will be the
12 houses that exist today. And that is the biggest chunk that we've got to take a bite out of in
13 terms of energy consumption and CO2 production, so I'm happy to be a co-sponsor of this
14 bill. I think the whole package of energy legislation that's come out of your office has been,
15 you know, farsighted and will make this county a better county. So, thank you.

16
17 COUNCIL PRESIDENT ANDREWS:

18 Thank you, Councilmember Elrich. Councilmember Leventhal is next.

19
20 COUNCILMEMBER LEVENTHAL:

21 Thank you. I just congratulate Mr. Berliner, as well. I'm glad to support this bill. It's a very,
22 very good idea. I think a lot of people will benefit from it. I sympathize with our Department
23 of Environmental Protection. They're trying to save the planet in the next six months. I
24 know when the Clean Energy Rewards legislation passed, it took well over a year to write
25 the regs. It was a new program, and how are we going to interact with individual
26 homeowners who want to take advantage of this good idea--these are not simple matters
27 that they're working with, but, of course, recognizing that they're not simple, we urge them
28 to act expeditiously, because Mr. Berliner is working very hard not only to come up with
29 good ideas but to get lots of publicity for them, and so a lot of members of the public are
30 going to be aware of this program, and we're all going to hear from them saying, "So when
31 can I get this loan?" And the answer is, "Well, not today, but as soon as DEP writes the
32 regs and we approve the regs and the program gets up and running." So the sooner the
33 better. I sympathize with what they're up against, but this is a very good idea. Obviously,
34 the County Executive is very supportive of it, and we look forward to it being implemented
35 as soon as possible.

36
37 COUNCIL PRESIDENT ANDREWS:

38 Thank you, Councilmember Leventhal. Councilmember Floreen is next.

39
40 COUNCILMEMBER FLOREEN:



April 14, 2009

1 Thanks. It's a very interesting bill, and I just wanted to comment on a couple of my
2 colleagues' comments. I look forward to the regulation process. I think one of the things
3 we struggled with in the committee was being clear that this wasn't a home renovation
4 funding program. It was a home energy improvement program. So I think how the
5 regulations are written in a way that achieve that goal will be key, and there's only going to
6 be X amount of money that is available, so the prioritization of these kinds of investments
7 and how the County will approach this will be left to our Environmental staff in identifying
8 categories, no doubt, and ways for this to work in--with the most bang for the buck, as it
9 were. We were very conscious of that issue in committee. There are lots of things that one
10 might identify as--most things we could do would improve our carbon efficiency and
11 carbon footprint, that's for sure. So finding that line will be their task. I wish them well, and
12 I know that six months will pass quickly. I think we were into very--as I recall, Roger, didn't
13 we ask for updates along the way? Or let me just say, we'd like to have an update
14 perhaps halfway through so that we can be apprised of how the staff is coming along. I
15 don't think it's going to be as easy as some of us will hope-- maybe it will be--to find-- find
16 the ways to identify and prioritize expenditures. So we're asking a lot. I think we --I just
17 want to say, I think we appreciate that, and we know you'll do a good job in helping us
18 reach conclusion on all this. You're smiling wanly in the back.

19
20 COUNCIL PRESIDENT ANDREWS:

21 Good description. All right. Thank you, Councilmember Floreen. Councilmember
22 Trachtenberg.

23
24 COUNCILMEMBER TRACHTENBERG:

25 Thank you, President Andrews. Bravo, Roger, for a job well done. This is a terrific piece of
26 legislation, and so timely, given where we are right now in this country about determining
27 the future around our energy policy, and what could be better than implementing real
28 reform on a very local level and really putting something together that's indeed
29 meaningful, as a Councilmember Elrich suggested. Just one question. I didn't have the
30 benefit of sitting in on any of the T&E worksession discussions. What did we decide in
31 terms of administration of the program? Because I know there was some correspondence
32 early on from folks in the community suggesting that we use a private company to
33 manage certain aspects of the program, and I wondered, had we come up with some sort
34 of a tentative plan about how we were going to at least start?

35
36 COUNCIL VICE PRESIDENT BERLINER:

37 We have deferred that, again, to DEP to determine how they would like this to be
38 administered. They have a range of options, from nonprofits to otherwise. I think there is
39 some concern with respect to going purely private insofar as it's not clear that the
40 repayment provisions and the use of County funds can be done in that manner, but that's
41 going to be something that the DEP will work through and determine the best vehicle. My

April 14, 2009



1 own preference would be to use a nonprofit for this purpose, in part because the private
2 sector lending institutions can make advantageous loans to a nonprofit. They get certain
3 tax benefits as a function of that. But we leave that to the Executive branch to determine.

4
5 COUNCILMEMBER TRACHTENBERG:

6 All right. OK. That's more than adequate, but I wasn't quite sure if we'd made a
7 determination. Sounds like we're going to reserve judgment, at least initially.

8
9 COUNCIL VICE PRESIDENT BERLINER:

10 We're going to allow our Executive branch to make that judgment.

11
12 COUNCILMEMBER TRACHTENBERG:

13 OK. Sounds good.

14
15 COUNCIL PRESIDENT ANDREWS:

16 OK. Thank you, Councilmember Trachtenberg. And there are no other questions or
17 comments, so we are ready for the vote on this bill--Expedited Bill 6-09. Will the clerk
18 please call the roll?

19
20 CRYSTAL BROCKINGTON:

21 Mr. Elrich.

22
23 COUNCILMEMBER ELRICH:

24 Yes.

25
26 CRYSTAL BROCKINGTON:

27 Miss Trachtenberg.

28
29 COUNCILMEMBER TRACHTENBERG:

30 Yes.

31
32 CRYSTAL BROCKINGTON:

33 Miss Floreen.

34
35 COUNCILMEMBER FLOREEN:

36 Yes.

37
38 CRYSTAL BROCKINGTON:

39 Mr. Leventhal.

40
41 COUNCILMEMBER LEVENTHAL:



April 14, 2009

1 Yes.

2
3 CRYSTAL BROCKINGTON:
4 Miss Ervin.

5
6 COUNCILMEMBER ERVIN:
7 Yes.

8
9 CRYSTAL BROCKINGTON:
10 Mr. Berliner.

11
12 COUNCIL VICE PRESIDENT BERLINER:
13 Yes.

14
15 CRYSTAL BROCKINGTON:
16 Mr. Andrews.

17
18 COUNCIL PRESIDENT ANDREWS:

19 Yes. The bill is approved, 7-0. Congratulations. Good job. We're now going to move on to
20 Item 9, which is a worksession on amendments to the Ten-Year Comprehensive Water
21 Supply and Sewage Systems Plan--water and sewage category changes. Action is
22 tentatively scheduled for next Tuesday. I'll turn to the chair of the T&E Committee,
23 Councilmember Floreen.

24
25 COUNCILMEMBER FLOREEN:

26 Thank you very much, Mr. President. This is always one of the Council's favorite subjects.
27 This time, it shouldn't be too complicated. The T&E Committee fully concurs with all the
28 County Executive's recommendations on these matters. Basically, the first item, though, is
29 a matter where we're not determining whether or not to approve a category change
30 request for water and sewer-- and/or sewer. We are only asked to determine whether or
31 not we would want to continue a deferral or go to a denial, in this case. This is a church up
32 on the eastern part of the county, on--let's see. Where are they? On--at the--near the
33 intersection of New Hampshire Avenue and Bryants Nursery Road. The Council
34 previously had--I believe we had recommended it for approval at a point in time. It turned
35 out that the potential user was no longer a party, and consequently we deferred the
36 application. When we took it up again, there was no applicant other than the property
37 owner, and we have just received a memo, or a letter from the applicant indicating that
38 there was a new church who was ready and willing to undertake the obligations of the
39 previous approval, but it's a little unclear. I see that the representative of that group is --or
40 at least of the applicant --is in this room, and, Keith, do you want to talk about this --this
41 one first? This is Bryanshire Corporation.

April 14, 2009



1
2 KEITH LEVCHENKO:

3 Sure. The issue before the Council is whether to deny the request, and that would then
4 require the applicant to come back through the regular process again, with the new
5 partner, or continue the deferral. It's been deferred for some time. The reason it came to
6 the Council this time around was because the Executive is trying to clear the decks of
7 deferrals that have been longstanding and try to move those along and get those resolved
8 one way or the other. In this case, as the deferral came to the Council, the applicant came
9 back and indicated that they had a new partner church that was interested in, as you
10 mentioned, the same parameters as what the committee had discussed last year. At the
11 public hearing, the Council asked the applicant to come back with further information
12 regarding that, and that they would consider it. At the committee review, the committee did
13 not have anything before it at that point, either, so it recommended denial. Yesterday, the
14 applicant did provide a letter which was forwarded to Councilmember offices that basically
15 summarized the intent of a new partner church that would like to utilize the property in a
16 similar manner to the previous applicant partner church. Within the packet, I note the
17 implications of the deferral or denial. In both cases, we may end up at the same place. It
18 may just be in a different time frame, perhaps. With a continued deferral, the Council
19 could take up the request at any time. So it would be up to us. There would still have to be
20 a new public hearing, and so there would be a full Council review process. What we would
21 not have as part of that process would be a new application process and the work that the
22 Executive does prior to transmittal to the Council. So I note in the packet, there are some
23 advantages to going through that process again. There's staff work that's done in DEP to
24 flesh out the request and review it and provide time for Planning Board staff to review, and
25 you have a regimented process that everyone is well familiar with. And that's what's noted
26 in the packet and what Council staff had suggested at the committee meeting. The--as I
27 mentioned, with the deferral, that would be one that would not have that process, but it
28 would just have just the County portion of that.

29
30 COUNCILMEMBER FLOREEN:

31 We have a letter from the applicant referring to the Action Worship Center. I do not know if
32 we have anyone from Action Worship Center here today. I see Mr. Mitchell in the back
33 there. That's a no. They're not here. So, the committee recommendation on this one had
34 been to deny it in the absence of a very clear presence of an applicant. Actually, my view
35 is, I'd like to see the actual user become the signatory--at least have a presence through
36 the process, particularly when we're talking about churches, which we--at least the T&E
37 Committee has been pretty sensitive to as service providers within the County and giving
38 them a little bit of leeway, particularly in the environmentally sensitive areas, if they would
39 agree to certain kinds of conditions. But the challenge has always been some
40 predictability and some real commitment from the applicant in this regard. This one is less

April 14, 2009



1 clear than many of the others we've looked at. So that was the committee
2 recommendation. I think Mr. Leventhal may have some questions on the subject.

3
4 COUNCIL PRESIDENT ANDREWS:
5 Councilmember Leventhal.

6
7 COUNCILMEMBER LEVENTHAL:

8 Yeah. These are not easy calls, and the Council, in the years that I've been here, has tried
9 to establish some parameters, at least. You know, each Councilmember obviously has to
10 search their conscience and think through these issues, but in general, we were very clear
11 a few years ago when we stated that we would not approve hookups, even for PIFs, in the
12 RDT zone. And that was a difficult--very difficult-- decision. We had some very important
13 religious congregations that felt really unhappy about that decision, and the county is--has
14 been sued by one of them, and so it hasn't been easy. And for myself, I've been--I was--I
15 think the Council reached the right decision with respect to the RDT zone, as difficult as it
16 was, and I've gone and visited with some of those religious congregations and faced
17 criticism, and that comes with the job. And then, with respect to other rural zones, my
18 voting history has been to be more sympathetic and more flexible where it was clear that a
19 church applicant was working with the community, involved in a dialogue, providing clear
20 services, and then what we have not done is, we have not encouraged speculation. That
21 is, we have not worked with landowners on the hope that someday they might find a
22 church. And there had been specific cases--in fact, involving the very same property that
23 we're now getting sued over. There's, you know, a few of these undeveloped parcels that
24 keep coming up again and again and again--not this one that we're talking about today.
25 I'm talking about one in the RDT zone now--prior to my arrival at the Council where a
26 landowner wanted to subdivide the property and wanted approval for four hookups with
27 the expectation that someday, four churches might locate there. And the Council said no,
28 we're not in that business, and I think that was the right decision. So now we have this
29 case, which is somewhere in the midst of those two poles. That is, we don't have a church
30 applicant here in front of us. There has not been a dialogue between the church applicant
31 and the surrounding community. We don't really have great detail about what the church
32 applicant wants to do. This is the second, I think, church applicant that the landowner has
33 tried to secure, and I just think that it isn't solid enough in this case, and I'm going to stick
34 with the committee's recommendation. The landowner has been quite vigorous in his
35 efforts to persuade us that he has a church, and I sympathize. Obviously, in this down
36 market, he wants to move his property, and I'm sure that he's facing a rough time carrying
37 the property, and I do sympathize with the concerns of a property owner, but I think we
38 really want to know that when we are-- particularly in a rural zone, and this is a RE-2
39 zone, particularly when we are providing for a church, that we have a relationship with the
40 church, but more importantly, that the community has a relationship with the church and
41 that that--that we know who we're dealing with and the community knows who it's dealing

April 14, 2009



1 with and that we have some opportunity for dialogue about impervious surfaces, about
2 runoff, about all of these issues that we are concerned about in the rural areas and the
3 Special Protection Areas. So, we're kind of setting precedent as we go here. The County
4 Executive and the Planning Board want to deny this. I've been willing to vote in favor of
5 religious institutions in the past, even above the objections of the County Executive and
6 the Planning Board, but this one just doesn't feel good to me. I don't think it's a solid
7 enough application, even with the new church now that we have a letter from the
8 landowner, stating that they've come forward. We haven't met with the church, and again--
9 I'm reiterating the point because I think it's so important--we have no evidence that the
10 church has had any dialogue whatsoever with the surrounding community.

11
12 COUNCIL PRESIDENT ANDREWS:

13 Thank you, Councilmember Leventhal.

14
15 COUNCILMEMBER FLOREEN:

16 So unless there are further questions, I guess I'll just move on, but that's the committee
17 recommendation on that one, and I don't think that new information has changed our view,
18 obviously. The second one is the Maloo and Briggs Chaney application, where there was
19 universal agreement to conditionally approve a sewer connection there. That's an RE-1
20 property on the north side of Briggs Chaney Road near Lear Lane in Cloverly. The
21 applicant is looking to build a--to subdivide property. It's all--was previously approved for
22 water. Currently it's vacant, but it was used as an equestrian center and residence
23 previously. Everyone agreed that approval could occur here, conditioned upon Planning
24 Board approval of a preliminary plan, where the Environmental staff saw that the
25 environmental benefit would be demonstrated. So that's a unanimous recommendation of
26 all the players in the review process.

27
28 COUNCIL PRESIDENT ANDREWS:

29 OK. No comments at this point.

30
31 COUNCILMEMBER FLOREEN:

32 Let's see here. Next one is a Laytonsville application. Again, there's unanimous support
33 for approval of this one. These folks own a 2.25-acre property that's zoned RDT out in--on
34 Olney Laytonsville Road and Golf Estates Drive, which is just at the edge of the town of
35 Laytonsville. You will recall, RDT is 25-acre zoning. This property is 2.24 zoning--acre
36 zoning, is the size of 2.24 acres. It doesn't comply. It was zoned for--we can't explain. I'm
37 sure there's an interesting history to that one. In any event, it contains a single-family
38 home. Property owner is looking for approval for public water. There is a planned water
39 main along 108 which will abut the property. We have previously approved a provision of
40 public water service to a number of developed properties outside Laytonsville that will

April 14, 2009



1 abut this new water main that's being developed to serve the properties within the town,
2 so this is consistent with that.

3
4 COUNCIL PRESIDENT ANDREWS:

5 OK. Thank you. No comments at this point on that one.

6
7 COUNCILMEMBER FLOREEN:

8 And then the last item is the Lee-Llacer property. This is RE-2 zoned property on Piney
9 Meetinghouse Road north of Glen Road. We actually saw this previously, and we--this is a
10 situation that includes an existing home and an additional structure on the property. There
11 has been some disagreement amongst the reviewing parties about how to handle this.
12 Our view, at least at the first time the Council looked at it, was to await a Board of Appeals
13 determination as to whether a Special Exception was appropriate for this property and
14 delay a determination on whether sewers should be provided until that land use
15 determination had been made on its own merits. So we stayed out of that. It's come back
16 to us, and the County Executive recommends approval of a single hookup only for this
17 that can serve both of the structures, noting that the approval is consistent with the
18 conditions of the Water and Sewer Plan's Piney Branch sewer restricted-access policy,
19 which we already have in place. So both Mr. Levchenko and the committee recommended
20 that this property be allowed to move forward. And that's that.

21
22 COUNCIL PRESIDENT ANDREWS:

23 Thank you very much, Councilmember Floreen, for the hard work of you and the
24 committee on this --on these issues. And we will come back for action next Tuesday on
25 these items.

26
27 COUNCILMEMBER FLOREEN:

28 Great.

29
30 COUNCIL PRESIDENT ANDREWS:

31 Thank you. Thank you all. All right. We have--we're going to move on now to an overview
32 of the FY10 operating budget. What we're going to do regarding the item after that--the
33 Office of Legislative Oversight's report on--research brief on furloughs and buyouts--is to
34 postpone the presentation on that until next Tuesday, but we're going to release it today
35 so that people and the public in general have the benefit of the report starting today. So,
36 let's first deal with a motion to release the Office of Legislative Oversight's report.

37
38 COUNCILMEMBER TRACHTENBERG:

39 So moved.

40
41 COUNCILMEMBER ERVIN:



April 14, 2009

1 Second.

2
3 COUNCIL PRESIDENT ANDREWS:

4 So moved by Councilmember Trachtenberg Seconded by Councilmember Ervin. All those
5 in favor of releasing the OLO report, please raise your hand. That's Councilmember Elrich,
6 Trachtenberg, Floreen, myself, Council Vice President Berliner, Councilmember Ervin,
7 and Councilmember Leventhal. The OLO report is released, 7-0, and we will have the
8 presentation on that next Tuesday. We're now going to spend the rest of our morning
9 time, before we break for a lunch meeting, on the FY10 operating budget, and we're going
10 to have an overview of that, and Steve Farber is going to lead that off, our legislative
11 director--our Council Staff Director. And we have officials, as well, from the Executive
12 branch who I know will be taking part in the presentation, as well, and here to answer
13 questions. So, turn first to Steve Farber, our Council Staff Director.

14
15 STEPHEN FARBER:

16 Right. I'm joined here at the table by Jennifer Barrett, our Finance Director, and by Joe
17 Beach, the Director of the Office of Management and Budget, and we have a number of
18 other of our colleagues. Rob Hagedorn, the treasury division chief. There's Chuck Sherer,
19 a legislative analyst who works very closely with me in these matters. David Platt, our
20 chief economist, and Alex Espinosa, who is the operating budget chief for-- for OMB. I'm
21 going to summarize my remarks today because we are pressed for time, and hit the
22 highlights of my packet, which you have. This is the 18th time that I've presented the
23 operating budget overview, and perhaps this time, I can get it right. The context in which
24 we're operating here is very familiar to everyone. The words housing bubble, credit
25 crunch, market meltdown--these are all too familiar to all of us. The result has been a
26 terrible reverse wealth effect, where investment and retirement accounts have been
27 decimated. Actually, the word "decimated" doesn't do it justice, because decimated means
28 literally reduced by one-tenth, and if my account had been reduced by just one-tenth, I'd
29 be happy. But there's been a tremendous loss of wealth worldwide, and that has had
30 serious implications for people who are retired, who are on the brink of retirement, who
31 are thinking ahead. The President says that there are glimmers of hope, and hopefully,
32 there are, and that they will-- we will--they will grow stronger. But it's a difficult situation.
33 We now have a national unemployment rate of 8.5%, and if you include in that
34 discouraged workers and underutilized workers, the Bureau of Labor Statistics says it's
35 15.6%. In this county and region, we're more favored, we're very fortunate, and yet, here,
36 too, we have real problems. The Bethesda-Frederick-Rockville metropolitan division is
37 one of 34 metropolitan divisions that the Bureau of Labor Statistics counts. We actually in
38 February had the lowest unemployment rate in the nation in this division, but it was 5.4%.
39 A year ago, it was 2.8%. In the county, we have an unemployment rate, as of February, of
40 5.1%, but that, while low, is in context quite high. I was surprised when I looked at the
41 numbers with Mr. Platt to see that not even in the recession of the early nineties or the

April 14, 2009



1 early part of this decade did we ever get out of the 3s in terms of an unemployment rate.
2 In fact, the first time we've hit 4 was in January of this year, when it was 4.6, and then 5.1
3 in February. In all likelihood, March, which we haven't yet received, is even higher than
4 5.1. And given the fact that the national unemployment rate appears to be headed to
5 double-digit levels, we may be heading even higher ourselves. For us right now, we have
6 26,000 people unemployed in our workforce of just over half a million and a great many
7 more people who are underemployed or who are discouraged workers, and many others
8 who are waiting for the next shoe to drop. Again, I hope the President is right that there
9 are glimmers of hope. It has been a difficult time. As the President has said, the economy
10 is going to get worse before it gets better, and unemployment, as Congressman Van
11 Hollen said this morning, is always a lagging indicator. In my packet, I tried to summarize
12 very briefly what the Executive's recommended budget does. It's a mixture of long-term,
13 short-term, and one-time measures. It gives priority to public safety, education, and the
14 safety net. It does reduce some services-- some of which you heard about last night--
15 employee pay and positions. But it does that less than other budgets in the region and far
16 less than many budgets elsewhere in the country do. And interestingly, overall, the scope
17 of the County's extensive services does remain largely intact. There's a lot to be
18 concerned about in the budget, but if you look at it as a totality, what's impressive about it
19 is how much of what the County is proud of in terms of services remains. I want to
20 mention briefly, closing the budget gap--I think our colleagues in the Executive branch,
21 working with the Executive, did a very adroit job of closing a very difficult gap that they
22 faced. There were some long-term cuts, some short-term cuts. There were some feats of
23 prestidigitation. That's going to happen, as well. But I think overall, they did quite a fine job
24 in closing a very difficult gap which had risen to close to \$600 million. There are some
25 large pending issues. There is the COLA issue. I think everyone is familiar with that. The
26 school unions early on last fall stepped up to the plate and, working with the Board and
27 superintendent, agreed to forgo their COLAs. The --last month, the FOP and the GO did
28 the same in concession agreements with the County Executive. The IAF has not, and that
29 issue is still pending. There's 125 million or so at stake here. As a practical matter, there
30 cannot be COLAs for all units, because if there were, you would have to forgo about 1,500
31 jobs or raise taxes in an unrealistic way or cut services. So I think that issue really is pretty
32 well settled. As far as Maintenance of Effort is concerned, the Council President and the
33 County Executive sent a letter to the state Board of Education requesting a waiver of
34 about \$95 million. The Board of Education --and their letter is also in this packet--has
35 generally been supportive. And that's fortunate, because in Anne Arundel County and
36 Charles County and some other jurisdictions, the board has not been supportive of what
37 the county government has requested in this respect. But that issue won't get resolved.
38 Certainly, the deadline for the state board is May 15. There's a public hearing with the
39 board on April 27. But that's a very big issue, as well. Then there are additional state
40 reductions. Melanie Wenger sent us a list over the weekend. It looked like about 41.6
41 million in additional state reductions not reflected in the Executive's budget. Mr. Beach

April 14, 2009



1 feels, from my conversation with him this morning, that the news may not be quite that
2 grim, that if we look at the tax-supported hit only and we subtract out some moneys,
3 particularly for local jail reimbursement and for the college, compared to the Executive's
4 assumptions, the hit may be more in the range--I think, Joe, you think of about 30 million.

5
6 JOE BEACH:

7 It could be as high as--Excuse me. It could be as high as 35 million. We're still working on
8 some of the-- clarifying some of the assumptions with the college and with others, but it
9 will be less than the 41 million on the--I think it was a DLS matrix.

10
11 STEPHEN FARBER:

12 Right. And so whatever it is, it's going to be a sizable hit, and the question is, how at this
13 stage of the budget process is the Executive going to recommend and the Council decide
14 to deal with this? One way would be to take a look at step increases, which are in the 27-
15 29 million dollar range, or to look at furloughs. But those have not been part of the
16 discussion at all so far, and I think it would be difficult to introduce them at this stage.
17 Furloughs also are a good thing to keep in your back pocket so that in the middle of the
18 fiscal year, if you do have a real problem, you can use them then. There is one area that
19 the Executive has taken some money from this year, and that is a retiree health benefits.
20 He proposes funding it at the '09 level instead of the higher Fiscal '10 level. There is
21 sufficient money left in that account that if the decision were made by the Council to do so,
22 you would be able to resolve this additional state aid problem. It's not an ideal solution, but
23 it certainly would be one option. Compared to budgets elsewhere, we're doing well. The
24 big jurisdictions in the area--Fairfax, the District, and Prince George's-- all are in tougher
25 shape than we are. The Executive's budget is up about 1%. Those budgets are all in
26 negative territory. They cut services more, they cut more positions, and they freeze
27 salaries. They do not provide step increases, which the Executive's recommended budget
28 does. And elsewhere in the country, as you well know, where there are about 15 states
29 that are either with double-digit unemployment already or about there, there are really bad
30 things happening. In my packet, I mention Nevada, where the University Medical Center
31 has simply cut off chemotherapy, dialysis, and other critical services for people who are
32 uninsured and where the governor has recommended a 6% pay cut for all state
33 employees and all teachers. Life is very difficult in many parts of the country. The
34 recommended budget is toughest on County government, which is down four-tenths of a
35 percent. It's up marginally, about 2%, for the schools, the college, and Park and Planning.
36 And within County government, it is public safety--fire and police--that are up 2.7, but
37 other agencies tend to be down, and some of them quite in the negative area. There are
38 no new tax increases in the Executive's recommended budget, but the property tax will be
39 at the charter limit. That will mean, for the median home, a 7.9% increase. But as Mr.
40 Sherer has pointed out in an excellent analysis that he has done, if you look at the last five
41 years, the median home in Montgomery County, based on the Council's actions, actually

April 14, 2009



1 has had annual increases that are 3.2%, compared to an inflation rate in that period of
2 3.7%. So the Council has been able, over the last five years, to keep property taxes for
3 the median home well under control. I would like to say a word more about retiree health
4 benefits. Two years ago, there was an agreement that we would try to phase in over five
5 years the prefunding of these benefits the way we do for pension benefits. This year,
6 under that five-year schedule, for Fiscal '10, the County would have put \$110 million into
7 that account to help redeem those promises to agency employees for retiree health
8 benefits. The Executive has proposed putting in 40 million, but as I mentioned, there may
9 be even a further incursion on that. And at a certain point, we've got to get real about this
10 problem, step up to the plate, because otherwise, we won't be able to keep those
11 promises, which we certainly want to do. Finally, there are concession agreements with
12 MCGEO and the FOP. There are some questions about some of the provisions,
13 particularly as they bear on our pension fund. Our pension fund does very well. Miss
14 Barrett and Mr. Beach and I are trustees, and we have a terrific staff, but our pension fund
15 is down from 2.8 billion in the fall of '07 to 1.9 billion today. It is better than most pension
16 funds in the country. We have--we've got an excellent record, but everyone has been hit,
17 and we've got to be very careful about putting additional burdens on the pension fund,
18 which some of these proposals would do. And so I think the Council will want to look hard
19 at those proposals. As far as next year is concerned, as the President said, the economy
20 is going to get worse before it gets better. We know about state aid problems that face us
21 in the coming year. The fiscal cycle will lag the economic cycle. We heard from
22 Congressman Van Hollen again this morning about federal stimulus, and there has been a
23 terrific effort by the Interagency Steering Committee to hunt down all possible stimulus
24 opportunities. They're doing a great job, but as Mr. Beach has pointed out, a lot of that
25 doesn't really help our tax-supported portion of the budget. So we're going to continue
26 aggressively to look for stimulus funds, but it's not going to be a panacea for our budget
27 problems. With that, I think I'll stop and see what questions you have.

28
29 COUNCIL PRESIDENT ANDREWS:

30 Thank you very much for the outstanding presentation. Each year, you present a very
31 thorough and concise and thoughtful overview of the budget, and I think you hit a
32 remarkable number of points in that presentation--give an excellent overview of where we
33 are and where we can go from here. So in short, this is going to be a budget where the
34 Council and the County Executive are going to protect essential services, stay within the
35 charter limit on property taxes, and, with the support of our employees, close a very large
36 budget gap without draconian cuts in services. And I want to publicly thank our employees
37 and the school system employees for their contribution here, recognizing that this is an
38 extraordinarily difficult time and that cost-of-living adjustments are just not affordable this
39 year, and that savings of \$125 million goes a long way to helping us close this deficit,
40 projected deficit, which we can't have--we have to have a balanced budget-- without tax
41 increases or with draconian cuts in services. So I think we have a framework here that the

April 14, 2009



1 Council and the Executive are both behind and united in supporting. And we will have a lot
2 of discussions about some of the details of that, as the committees have already started to
3 have, on particular proposals within the budget. But I think there is agreement on the
4 framework, and that is very helpful. I'm going to turn to my colleagues now, beginning with
5 Councilmember Floreen.

6
7 COUNCILMEMBER FLOREEN:

8 Thanks very much. Always a very-- well, a little reality check here, and important to
9 understand, so thank you very much for your good work, Steve, in explaining this. Got a
10 couple of questions. On circle 36, you've got a chart of the revenue assumptions, and I
11 just wanted to review them a little bit so we all understood where the money is coming
12 from at this stage of the game. Looking at the last column, I think, is-- looking at the--the
13 revenue assumptions from the current budget. Is this chart telling us that we anticipate
14 that property taxes will come in at about 73 million over what we assume for this year?

15
16 STEPHEN FARBER:

17 Yes.

18
19 COUNCILMEMBER FLOREEN:

20 And then the next line, income taxes, though--income tax revenue, we assume to take a
21 big plunge-- 110 million down. That's showing.

22
23 STEPHEN FARBER:

24 Yes.

25
26 COUNCILMEMBER FLOREEN:

27 Next, transfer and recordation taxes, we expect to be down by 25 million, right? And then,
28 there's other taxes, we expect to be down by 0.4. And then the next one is general state
29 aid, federal aid, and other resources. Is that--that's 60 million above current assumptions.
30 Does that assume-- that assumes the stimulus money?

31
32 STEPHEN FARBER:

33 Well, the stimulus money tends to be non-tax-supported money, but this number--correct
34 me if I'm wrong, Joe--doesn't reflect the latest state aid reductions.

35
36 JOE BEACH:

37 It does not.

38
39 COUNCILMEMBER FLOREEN:

40 It doesn't include the state reductions, but it includes the stimulus--
41



April 14, 2009

1 JOE BEACH:

2 It does not include the stimulus funding because that would be reflected in the grant fund.
3 This chart only shows the tax-supported revenues.

4
5 COUNCILMEMBER FLOREEN:

6 OK. So the additional state cuts would be--did you say--did I hear you say 35 million?
7 About?

8
9 JOE BEACH:

10 It could be as much as 35 million relative to the Executive's assumptions in his budget.

11
12 COUNCILMEMBER FLOREEN:

13 Yeah. We heard last week it was 41, so that--bit by bit, we're doing well. If we kept going,
14 you know, could get it down to zero.

15
16 JOE BEACH:

17 Well, often, the assumptions in our budget are different than the assumptions the state is
18 working with.

19
20 COUNCILMEMBER FLOREEN:

21 Sure. So you expect that number of 60.5 to be down by about 35 million, more or less.

22
23 JOE BEACH:

24 Approximately. Could be, yeah, down by that much.

25
26 COUNCILMEMBER FLOREEN:

27 So if you --if you added 35--I'm going down to that line on total resources, and I know that
28 there's some juggling within the reserve and so forth to get us to understand where we
29 are. You're showing \$17 million less available to us to spend at this point in time than we
30 thought when we approved the budget for this current year, and I think if we were to add
31 the 35 million to that, that would put us at \$52 million less than the current year budget of
32 resources, of tax-supported resources.

33
34 JOE BEACH:

35 That's correct.

36
37 COUNCILMEMBER FLOREEN:

38 Yeah. OK. Just wanted to understand that. I think it's--this is a complicated piece of sets of
39 information, but I think it's important to get the message out as to what we're facing. And
40 then, my other question--I talked to you a little bit about this, Mr. Farber--the chart that we



April 14, 2009

1 have on circle 48 shows the impact of the tax burden on the residential home-- owner-
2 occupied property. Is that --that's right?

3
4 STEPHEN FARBER:

5 Yes.

6
7 COUNCILMEMBER FLOREEN:

8 You know, it would be helpful, and I think this has been asked for, if we could have a
9 similar chart, or an appropriate chart that reflected what the tax rate is on, basically,
10 commercial property and non-owner-occupied property. I understand they don't get the
11 credit, so the range of tax, I guess, is--you don't need to do that. It's just a simple number.
12 But if we could get that--I know the Chamber had asked for that information, and I think
13 people need to see what that tax burden has been over time, too, not just this current
14 year.

15
16 STEPHEN FARBER:

17 Yeah. We will work with our colleagues in finance to put that together. Basically what we
18 determined, in response to the Chamber's request last week, is that for Fiscal '10, the
19 average commercial property tax bill will go up 2.13%, and for Fiscal '09, it went up
20 6.76%.

21
22 COUNCILMEMBER FLOREEN:

23 Yeah. So, to understand how those changes have--to be able to show that in comparison
24 the--at least the changes in time that are reflected on circle 48, I think, would be helpful as
25 we speak to the community about these issues and what the cost of government really is.
26 Thank you.

27
28 COUNCIL PRESIDENT ANDREWS:

29 Thank you, Councilmember Floreen. Council Vice President Berliner is next.

30
31 COUNCIL VICE PRESIDENT BERLINER:

32 Thank you, Council President. I wanted to go back to the point, Mr. Farber, that you raised
33 with respect to the retiree health benefits on page 8 of your packet, because I think you
34 make some important observations there that I assume the Executive branch is looking at
35 very carefully, as well. There are a number of us who originally were a little apprehensive
36 about the schedule that had been first proposed by the County Executive with respect to
37 the five years and urged a longer period of time, and of course, last year, we did that, and
38 went to an eight year. As you observe in your packet, had we not done so, this year, we
39 would have been looking at a potential funding requirement of over \$100 million. The
40 County Executive is for--his current budget has proposed a \$40 million contribution. As
41 you observe in your packet, you say governments nationwide face a similar funding

April 14, 2009



1 problem. This year, credit rating agencies, some analysts believe, will recognize this
2 year's fiscal pressures as unique. I happen to believe that's probably correct, and I look at
3 that 40 million, and I say, I think this is a year where you just say, "I'm sorry, we can't
4 make a contribution this year. We will have to reschedule this," and we will have to
5 reschedule this. But the difference between putting 40 million or zero in this kind of fiscal
6 climate-- it seems to me that that's a place where I'm hoping the County Executive is
7 looking very seriously at finding the dollars we need in light of the state's action. Mr.
8 Beach, Miss Barrett, or Mr. Farber, if you'd care to comment with respect to this, I'd be
9 grateful.

10
11 **JOE BEACH:**

12 That's certainly something that we're considering. It's certainly an option in light of the
13 state aid reductions that we're looking at, but I can't say anything definitive at this point.

14
15 **JENNIFER BARRETT:**

16 I guess what I would add to the conversation is, what's going to be very important as we
17 react to the state cuts and think to further changes to the FY10 budget and looking toward
18 FY11, is how we're going to come out of this over time. That's what the rating agencies
19 are looking at, in part, is, how are we managing through? They understand the difficult
20 times we're all facing, but how are we going to manage through and come back out at the
21 other end? And when you cut down to zero, it makes getting back up to what was planned
22 even harder, and we're also looking, as Mr. Farber pointed out in his packet, we're adding
23 to the problem.

24
25 **STEPHEN FARBER:**

26 I think that's right. We would not do this with our pension contribution to our pension fund.
27 There are jurisdictions that in extremis have done that. We would not do that. We're a
28 AAA jurisdiction, and we would never do that. But here, we have something that's quite
29 analogous to our pension fund for retirement payments. This is retiree health insurance,
30 and the Executive, I think, very eloquently states in his budget message how important it
31 is to fund these promises. And I agree that in a year like this, you know, it's a different kind
32 of year, but I think Jennifer is absolutely right. You can't do this indefinitely. You have to
33 figure how you're going to get back on track, and there's an awful lot of difference
34 between 110 million, which was to have been our commitment this year, and little or
35 nothing.

36
37 **COUNCIL VICE PRESIDENT BERLINER:**

38 Just so there's no confusion, I certainly appreciate that we are going to have to have a
39 plan coming out of this, and that plan will need to be a realistic one. It'll need to take into
40 account next year being an ugly year, as well. But I think that if we come forward with a
41 plan --obviously, a much longer plan, if you will, because we simply can't take on these



April 14, 2009

1 kinds of dollars in a compressed period of time--I think that is what's most important, and I
2 do believe that the circumstances that we face now are so unique that it justifies us putting
3 a pause on this in this moment in time and developing a responsible plan coming out of
4 this period.

5
6 COUNCIL PRESIDENT ANDREWS:

7 Thank you, Council Vice President Berliner. Councilmember Elrich.

8
9 COUNCILMEMBER ELRICH:

10 Well, I want to start by saying that I share Roger's perspective on what to do at this point. I
11 think that no matter what we do, we're going to add to the sum problem. And we've cut
12 pretty deeply into things that the residents of this county expect, and I'm loath to go any
13 further in that direction, and if I have to make a cut, it's those funds that I think when we
14 take out, it will be harder to get out of this hole, but if we take it out of services, then lots of
15 other things for lots of people are going to be harder to deal with, and I'm just not--it's not
16 a direction I'm very comfortable going in. These are really difficult and unpleasant choices
17 we're going to have to make, and even with this, the Council is going to have to do some
18 other either cuts or thinking, because we either have to plug a gap by passing an
19 ambulance fee--or an insurance recovery act, as you might say --or we're going to have
20 to, you know, find cuts to match that, and I think some of us certainly share concerns
21 about some of the cuts that were made that are sitting in the budget right now that we
22 might, you know, wish, you know--I might prioritize some things differently. I don't think
23 there's a radical change in how you might approach the budget, but there certainly may be
24 some things that some of us value more than other things. But I think we've got not much
25 room to play with and a lot of the concerns that are being, you know, laid on our table. I'd
26 like--a couple things have been raised. One is that I'd like to know--and you don't need it
27 today--but I'd like to know what the structural unemployment looks like for the County. I've
28 seen regional data at COG last month where they actually go by sectors where the
29 unemployment is occurring, and it's not even across the board, and I think it would be
30 interesting to see because it may have some implications for how you come out of it and
31 what's likely to come out of it. For example, some industries may never recover. You
32 know, there was a rapid expansion of people in financial services, often promoting really
33 bad loan programs, and those things may not come back again. Those financial services
34 companies may not come back again. And I think it would be helpful to at least get a
35 picture of what part, what sectors of the economy are hit harder than others by the
36 recession. The other thing that's interesting--and it's kind of a shame we're not doing the
37 furloughs and buyouts report today, because these two things, you kind of target them at
38 the end of your draft here, and we've got this report that says we need to think about it.
39 And I'll say that you end with a lot of questions, like, "What's the impact of this? What's the
40 impact of that?" I guess I would hope that in the next couple of weeks we actually get
41 some numbers about what the impact is. I think we do need to know to what extent we're

April 14, 2009



1 making the problem worse for next year and the years after that. We also need to know
2 how much of these savings are going to be real this year and how much of them may not
3 actually materialize, because the cost might be unrealistic, and I certainly want to
4 minimize as much as possible the threat of having to get halfway or a quarter way into this
5 year and discover that the savings that we think we're getting by some of these decisions
6 don't generate the savings, and then we're stuck with furloughs and even more onerous
7 things to do. So I think we need to be really sure of the numbers and the costs, both in the
8 coming year and the out years, in assessing the impact of some of these things that
9 you've highlighted here.

10
11 **STEPHEN FARBER:**

12 OLO has done a terrific job with their report, and I know you look forward to hearing that
13 as soon as possible. Unfortunately, time is tight today. But they do raise important
14 questions about the proposed \$40,000 buyout plan as to its cost effectiveness. You're
15 right. The Council does have to look very carefully at that because that is a lot of money.
16 And then there are also questions about some other provisions, such as the out-of-county
17 car proposal regarding police officers. So those are things that we will have to look at very
18 closely in the next couple of weeks. The Council actually is supposed to make its final
19 decisions on the budget a month from today, on May 14, and then take final action on May
20 21, so time is compressed.

21
22 **COUNCIL PRESIDENT ANDREWS:**

23 It will be a very busy 30 days. One of the other points that the Office of Legislative
24 Oversight made in that report regarding the proposed buyouts is that it makes a huge
25 difference whether the positions are filled that people leave or not, in terms of whether you
26 have costs that are larger in the long term than you save in the short term. So if you are
27 filling all the positions, or most of them, then you're going to have long-term costs that
28 exceed your savings, sometimes by a lot. Councilmember Leventhal is next, then
29 Councilmember Trachtenberg.

30
31 **COUNCILMEMBER LEVENTHAL:**

32 Well, my questions follow on very much with the questions of Councilmembers Floreen
33 and Berliner, and I think what all three of us are trying to understand is, how big is the
34 hole? What is the Council's job now, for the next few weeks? So understanding Joe
35 Beach's reply to Councilmember Floreen that there's something like 33 million that the
36 County Executive was counting on when he sent us his budget on March 15 that we aren't
37 now going to get as a result of the decisions made by the Maryland General Assembly--I
38 apologize. And then following along on Mr. Berliner's question regarding the OPEB
39 contribution, I want to be very clear about one thing. Are we not going to get from the
40 County Executive--and am I mistaken, is it not coming tomorrow--his recommendations on

April 14, 2009



1 how to reconcile the budget that he sent us on March 15 with the revenue situation we
2 now face? Is that coming to us tomorrow?

3
4 JOE BEACH:

5 No, not tomorrow. We're meeting with him tomorrow to discuss it, and within a week, we
6 expect to make our recommendations on how to close that gap.

7
8 COUNCILMEMBER LEVENTHAL:

9 OK. So, of the 33 million that we--I --understandably, the County Executive likes his
10 budget and thinks we ought to pass what he sent us. That's his position. It's his budget.
11 And we understand that we aren't going to get--again, I'm just repeating what Joe Beach
12 said --33 million that he was counting on. So he will have a recommendation that will wipe
13 out, at least in terms of his recommendations, that \$33 million problem. Yes?

14
15 JOE BEACH:

16 That's correct.

17
18 COUNCILMEMBER LEVENTHAL:

19 And we'll get that in the next week.

20
21 JOE BEACH:

22 Yes.

23
24 COUNCILMEMBER LEVENTHAL:

25 OK. Now, the County Executive's budget also relies on \$14 million--and now I'm following
26 along on Mr. Elrich's point-- will find some way of--some different term for EMS recovery.
27 But that's \$14 million that the County Executive is counting on in revenue in FY10? Is that
28 correct?

29
30 JOE BEACH:

31 The gross revenues were about 14.5 million. When you take out the implementation costs
32 and our allocation from those for the LFRD, it's about a 12.5 million net.

33
34 COUNCILMEMBER LEVENTHAL:

35 Sure.

36
37 JOE BEACH:

38 Now, of course, we would recommend very strongly the Council just approve it, but if they
39 were not to, that would be the gap you would have to fill.

40
41 COUNCILMEMBER LEVENTHAL:

April 14, 2009



1 Right. So--so just putting all these pieces together, and understanding--very much
2 understanding, because my own committee, the HHS Committee, has begun its work, and
3 there are some things we're going to want to add back, and there may be some things that
4 we'll reduce, and so, you know, we are the Council, and we will make some changes to
5 the County Executive's budget. But just in terms of what it would cost and what we have to
6 do to get to a balanced budget, we have a \$33 million reduction from the state, and then,
7 depending on whether or not the votes are present on the Council to adopt an ambulance
8 fee timely, and then whether the political environment allows an ambulance fee to be
9 imposed timely, there's another \$12.5 million that is in play. And so let me just say this
10 about that issue, on the EMS cost recovery. I respect the views of any Councilmember,
11 whether any Councilmember feels that it's an unfortunate choice but warranted under the
12 circumstances or an unpalatable choice that just has too many issues of equity and health
13 care delivery. I think they're--I've labored, you know, with my conscience about this issue.
14 It's not an easy decision, and I acknowledge that Councilmembers will not come out in the
15 same place. And I think that this is an issue that--there are very legitimate points of view,
16 both pro and con, on EMS recovery. I do think we need to bring it to a vote, Mr. President,
17 and we'll find out where the votes are. I do think it is so much in the public conversation,
18 and various --and we heard testimony yesterday. Various aspects of the community don't
19 understand why we're not doing it. It seems so logical and reasonable. Why don't you just
20 go ahead? Other elements of the community are strongly opposed, as we all know. And I
21 think that if we get through this budget without going ahead and putting ourselves on the
22 record, we'll just leave that question unanswered, and there will be aspects of the
23 community who will have services cut or who may have wages cut who will resent the fact
24 that the Council never made it clear where we were. And so I respect the views of
25 Councilmembers, I really do --I don't find it an easy choice myself--but I do think we need
26 to have that vote, and then we'll settle that question, whether the votes are there or not.
27 Now, just to be clear, even if there were--obviously, if there were only two, one, two, three,
28 or four votes for the EMS recovery, then it would not pass. If there were five votes for it,
29 then it still might not come to pass because some of the forces in the community who are
30 opposed to it may petition it to a referendum. We're all aware of that, and it wouldn't be
31 the first or the last time, probably, that fire and rescue issues are debated by the voters on
32 a ballot. And so I think that-- and we've been having some side conversations, and I think
33 we can have private conversations, and we need to have a public conversation to sort of
34 map out what are the various scenarios. If it passed with five votes, would it in fact
35 happen, and would we in fact get the revenue, or would other things --including the courts,
36 potentially--intervene? So I just encourage us to talk amongst ourselves and then
37 ultimately to have a public dialogue, and then we'll find out where the votes are. And
38 again, I just want to emphasize, I respect the views of Councilmembers on this issue. This
39 is not--this is not a clear, black-and-white issue. There's a lot of questions of equity and
40 philosophy and difficulty. In bad times, we have to sometimes make undesirable choices.
41 But I do think we need to resolve that, and I would encourage us to do that relatively early

April 14, 2009



1 in the process because, you know, my committee, for example, we have some programs
2 that are very much needed by people who are very much in need, and if we're going to
3 have to have a target where service delivery is restrained even further, the County
4 Executive has already eliminated a lot of jobs, and service delivery is going to be quite
5 difficult in the HHS department. It would be important for us to know earlier rather than
6 later, what is the real target that we need to meet?

7
8 COUNCIL PRESIDENT ANDREWS:

9 OK. Thank you. I appreciate the spirit of the remarks, and I believe there are ways that the
10 Council can close that \$12.5 million gap that are preferable to having an ambulance fee
11 as part of public policy, and I will be putting together a proposal with--collaborating with all
12 of you to do that and to follow through, really, on what the expressed will of the Council
13 was when we sent a letter to the Executive urging him not to put it in the budget. I think
14 that was a clear message. The County Executive has every right to continue to push for it.
15 He obviously thinks it's a good idea. I think there are far better ways to close that \$12.5
16 million gap than going through and adopting an ambulance fee and all that that would
17 bring about. I think that we can avoid that. I think that would divide the County, and I think
18 we can unify the Council behind a better approach, and I look forward to working with you
19 and everyone else on the Council in the coming weeks--and sooner than later--to do that.
20 Our next speaker is Councilmember Trachtenberg.

21
22 COUNCILMEMBER TRACHTENBERG:

23 Thank you, President Andrews. And I thank Steve for an excellent presentation, and I
24 thank those that are here from the Executive branch and recognize your effort around the
25 budget for this year. You know, the issue that in my mind that keeps getting raised--not
26 just by myself publicly, but really by folks in the community--is really specific to the issue
27 of sustainability, and that that indeed is what we have to tackle this year and the next few
28 years, as well. And we don't have a crystal ball, so we can't predict, of course, what's
29 likely to transpire around our economic situation but nothing would suggest it's going to
30 turn around quickly, and so what I'd like to at least put on the table and have some
31 response-- perhaps not directly this morning, but over the course of the next few weeks--is
32 that it would seem to me that if we're really going to tackle the sustainability issue, we've
33 got to really have some hard conversations about restructuring our programming and
34 reformulating our priorities because if next year is as bad as this year, to make cuts on top
35 of cuts, that will even be less palatable. They're difficult enough this year, but to go to the
36 same place next year is going to even be that much harder. And so I'd like to really have
37 at least some basic conversation about what we might be anticipating in terms of our
38 dilemma for next year. I'd like some definition about what the number might look like. But I
39 also think we've got to have some conversation about what we do to restructure
40 government, because that is really the heart of the problem that we face.



April 14, 2009

1 STEPHEN FARBER:

2 Well, we'll certainly pursue that subject. I know, Mr. Elrich, you've had a very strong
3 interest in that subject and have spoken to it for quite some time. OMB currently projects
4 the gap, the budget gap, for Fiscal '11 at \$370 million. On the other hand, last May, the
5 gap for Fiscal '10 was 200 million. It ended up to be more than 600 million. So you're right,
6 we don't know what's coming ahead. It will be a slow turnaround regardless, and structural
7 changes obviously are something that we do have to look at.

8
9 COUNCIL PRESIDENT ANDREWS:

10 All right. Well, thank you very much for the overview and a lot of good supporting
11 information in the packet, as well, that gives a comprehensive perspective on what we
12 face. I thank my colleagues for their discipline, and we are now going to meet with some
13 of our representatives from across the street on collective bargaining and the law
14 regarding it, and we have a proposed closed session that I need to have a motion made in
15 order for the Council to do that.

16
17 COUNCILMEMBER TRACHTENBERG:

18 So moved.

19
20 COUNCIL PRESIDENT ANDREWS:

21 All right, and you need to cite the reference here. OK?

22
23 COUNCILMEMBER TRACHTENBERG:

24 I would--I would ask that we have a closed session for the purpose of consulting with
25 counsel to obtain legal advice regarding pending or potential litigation pursuant to
26 Maryland Code, State Government Article 10-508, section (a)(7) and (a)(8).

27
28 COUNCIL PRESIDENT ANDREWS:

29 And you have to read the topic, too.

30
31 COUNCILMEMBER TRACHTENBERG:

32 Topic is collective bargaining and related issues.

33
34 COUNCILMEMBER LEVENTHAL:

35 Second.

36
37 COUNCIL PRESIDENT ANDREWS:

38 OK. That's moved by Councilmember Trachtenberg. Seconded by Councilmember
39 Leventhal. All those in favor of going to closed session, please raise your hand. That's
40 Councilmember Floreen, Councilmember Ervin, Councilmember Elrich, Councilmember
41 Trachtenberg, myself, and Councilmember Leventhal. That is 6-0. We will meet in closed

April 14, 2009



- 1 session at--as soon as people can grab a bite to eat and bring it up to the sixth-floor
- 2 conference room.

April 14, 2009



TRANSCRIPT

April 14, 2009

MONTGOMERY COUNTY COUNCIL

PRESENT

Councilmember Phil Andrews, President

Councilmember Roger Berliner, Vice President

Councilmember Marc Elrich

Councilmember Valerie Ervin

Councilmember Nancy Floreen

Councilmember Michael Knapp

Councilmember George Leventhal

Councilmember Duchy Trachtenberg

April 14, 2009



1 COUNCIL PRESIDENT ANDREWS:

2 Good afternoon, everybody, and welcome to the County Council afternoon session. We're
3 going to begin the afternoon -- in fact, it will be the afternoon. There will be public hearings
4 for the Council. Then there will be committee sessions, and we will have a Council public
5 hearing tonight, which will be our a second public hearing on the operating budget that's
6 been proposed by the Executive. Our first public hearing is a hearing on amendments to
7 the County government collective bargaining agreements with the County employee
8 representatives. Persons wishing to submit additional materials for the Council's
9 consideration should do so before the close of business today. Actually, it is not today.
10 Thursday is Thursday. So Thursday, April 16, is when we would want to have comments
11 that are in addition to what we hear today. A Management and Fiscal Policy worksession
12 is tentatively scheduled for Monday, April 20, at 9:30. Please call 240-777-7900 for
13 information. And if you are speaking, before beginning your presentation, please state
14 your name clearly for the record. We have one speaker signed up for this hearing, and
15 that is Joe Adler, representing the County Executive. Mr. Adler. [PAUSE] Good afternoon.
16 Just remember to press the button, since I'm not sure this is your first time -- all right --
17 here. So there will be a light that goes on when you have 30 seconds left. You'll see a
18 yellow light in front of you on the -- slightly to your right. And I don't think your mike is on.
19 There you go. You got it.

20
21 JOSEPH ADLER:

22 Good afternoon. Oh, wow. Joe Adler, director of human resources for Montgomery
23 County, and I believe we are on Bill 10-09. Am I correct in that?

24
25 COUNCIL PRESIDENT ANDREWS:

26 What is the bill number? It's a -- these are the amendments. We are on -- we're not on 10-
27 09 right now. We are on the amendments to the County government collective bargaining
28 agreements, but I understand that you wanted to speak towards Item 14, as well, which is
29 Expedited Bill 10-09, Retirement Incentive Program. So you can address both in your
30 remarks, and you've got up to five minutes to do so, and maybe questions that allow you
31 more time.

32
33 JOSEPH ADLER:

34 OK. These are the Memorandums of Understanding reached with the two bargaining units
35 concerning concession bargaining, and to both -- to the credit of the FOP and MCGEO, as
36 indicated, neither of them had -- were required or were bound to come to the County and
37 engage in any kind of negotiations because there was no reopener set in the collective
38 bargaining agreement. However, on behalf of the Executive, we sat and had a number of
39 sessions and came up with what we believe as equitable to both sides -- that both in the
40 FOP as well as in the MCGEO agreement, there are -- there were scheduled to be GWAs,
41 general wage adjustments, that would have been paid had we not come to an agreement.

April 14, 2009



1 And so what this -- these two agreements represent are changes to that agreement. In the
2 case of FOP, we are proposing to eliminate the third year of the agreement and instead
3 substitute this MOU, which would then go for two years. In the case of MCGEO, we are
4 proposing to eliminate or modify the last year or a three-year agreement, and the MOU
5 would take its place. And in doing so, again, the GWAs for both bargaining units will not
6 be paid for the year. And if I may, on the other bill, then, on Bill 10-09, or do I need to
7 come back for that?

8
9 COUNCIL PRESIDENT ANDREWS:

10 No, you can go on.

11
12 JOSEPH ADLER:

13 That is -- I'm here also to express my support and the support of the Executive for Bill 10-
14 09, which provides a one-time retirement incentive to active full-time employees in
15 retirement groups A, E, or H in the ERS, and this bill also implements an agreement
16 between the County and MCGEO United Food and Commercial Workers, Local 1994,
17 which, as you know, represents the OPT and SLT bargaining units. The legislation -- and I
18 have written testimony on this I will submit -- basically provides a one-time financial
19 incentive to active employees to retire as of June 1. It would enable the County, we
20 believe, to reduce the number of employees who might need to be RIF'ed, and there may
21 be some additional savings, as well. The bill provides for a \$40,000 one-time incentive to
22 incentivize people to retire by that date, and the bill also eliminates penalties that currently
23 are in existence if you are within one or two years of retirement. So what the bill does is
24 that if you're within two years of retirement, there's no penalty, and if you've signed your
25 paperwork and you retire by June 1, you will get a \$40,000 incentive. We believe -- and
26 we will come back with more data -- but we are hopeful to have 135 employees apply.
27 Last year, as you recall, we had a similar incentive. The payment was less. We had 157
28 folks take advantage, if I remember correctly, and we -- fiscal statement for the legislation
29 will indicate that we expect to generate savings of \$2.6 million in FY10 from this retirement
30 incentive program. And then if some of the positions currently vacated will be abolished,
31 then the savings will be greater, and so, again, we are -- both on behalf of the Executive
32 and then on the collective bargaining MOU that we submitted, we are looking for your
33 approval.

34
35 COUNCIL PRESIDENT ANDREWS:

36 OK. Any other comments on any items that are part of the agreement?

37
38 JOSEPH ADLER:

39 If there are specific questions, I'll be happy to answer them, but at this point, we just -- we
40 believe -- again, this was done in good faith on both sides and reflects, we believe, a win
41 for the taxpayers as well as the County. And there are certain things that the bargaining

April 14, 2009



1 units asked for and received, and they are far, far -- the savings far outweigh any
2 additional expense that might be incurred.

3
4 COUNCIL PRESIDENT ANDREWS:

5 OK. Thank you for your testimony. And you are the only speaker, so the -- that part is
6 done. If there are questions from colleagues -- I have a couple, but I'll see if my
7 colleagues have any. No? OK. There's a report that was released today that I know you're
8 aware of, which is the Office of Legislative Oversight's study of retirement incentive
9 programs, that we will be having a presentation on this next Tuesday before the Council,
10 and the Management and Fiscal Policy is scheduled to take it up next Monday. But they
11 did an analysis of the retirement incentive program that was implemented for this current
12 year, and their projection is that the net cost to the County over a 10-year period is
13 approximately \$12.8 million -- that, yes, there is an initial savings of several million dollars,
14 but that over time, because many of the positions were filled and that you lose the benefit
15 over time, and you actually have a significant net cost over time. And I don't know if you're
16 prepared to comment on their findings today, and I understand if you're not, but I think it's
17 important to have a response from the Executive branch about their conclusions about the
18 current retirement incentive program that is in place for this year.

19
20 JOSEPH ADLER:

21 As indicated, we saw that -- I first became aware of it, to the entire report, yesterday
22 afternoon, so I haven't had time to do a thorough analysis. However, we have talked to
23 our folks, and also OMB is involved. Those numbers -- and we're not casting any
24 aspersions on these -- on the methodology, but those numbers were based on some
25 assumptions that were made and which are valid, but you can equally make different
26 assumptions which come out to different numbers, and by the time we are in committee
27 on this, we will have detailed testimony basically supporting our conclusions. We believe,
28 again, that the savings are legitimate, the savings that are generated will be there. You
29 know, we go into this with actuarial numbers, and again, because of the assumptions and
30 the fact that they took it out to a 10-year-period, it shows those numbers, but again, some
31 other different assumptions that could be made would generate different numbers.

32
33 COUNCIL PRESIDENT ANDREWS:

34 No doubt. I mean, certainly, what you assume is crucial. And Mr. Renne has joined us at
35 the table. Do you want to respond to the question?

36
37 GINO RENNE:

38 Yeah. I thought we were broke. These are pretty nice digs. But in any event, those
39 assumptions, in my opinion -- first of all, I'd like to put on the public record that the union
40 was never given the courtesy of a copy of that report, but that's become common practice
41 of the Council.



April 14, 2009

1 COUNCIL PRESIDENT ANDREWS:

2 Well, it's just been released a couple of hours ago, so you're welcome to have a copy.

4 GINO RENNE:

5 Well, I think the first people who get it should be the employees that it affects, but that's
6 just me. But in any event, let me address your issue. Those are assumptions are
7 erroneous on many levels. You're going to pay that \$12 million regardless, because those
8 people are all in the retirement arena, if you will, and they're going to move out of the
9 system. The point we're trying to get to is move them sooner than later so we can have
10 some economic relief on the operating budget, which is a problem. And those costs will be
11 incurred by the pension plan, not the general operating budget. And I thought that was the
12 whole point. So you can continue to do your studies, Mr. President, and go after labor
13 agreements and pension plans and the like, but at the end of the day, I can assure you
14 that actuaries with expertise in pensions can come up with any assumptions that we
15 would like them to come up with.

17 COUNCIL PRESIDENT ANDREWS:

18 Well, the point isn't just to save money in the short term. The point also is not -- to avoid
19 long-term obligations that dig a deeper hole, so --

21 GINO RENNE:

22 But you're going to incur those obligations. That's the point you're missing. See? You only
23 want to hear what you want to hear. The point you're missing is, you're going to incur
24 those obligations under any scenario because those people, unless they, unfortunately,
25 die -- and then there's beneficiary obligations even if they do -- you're going to have those
26 obligations because they're in the retirement pipeline, and that's the piece of information
27 that's being ignored.

29 COUNCIL PRESIDENT ANDREWS:

30 However, if people retire sooner than they would otherwise, Mr. Renne, and their position
31 is also replaced, then you have two obligations at the same time. which you don't have if
32 you have the person staying and not being replaced or if you have the person leave under
33 the retirement incentive program and is not replaced. So I think the key issue here is, what
34 percent of the positions that people leave are then refilled, and how quickly are they
35 refilled, and at what salary level?

37 GINO RENNE:

38 Mr. Andrews, even if you fill 100% of them, you're filling them at a much reduced cost, so
39 your assertion is just factually erroneous. Even if you fill 100%, you're bringing them in at
40 entry -level salaries. Your salary is less, your Social Security rolup is less, your healthcare
41 benefit costs are less -- everything is less. So there's always going to be a savings to the

April 14, 2009



1 operating budget. And I think that's what's being mixed and not understood. The problem
2 we're faced with is an operating budget problem, and we're diligently trying to work with
3 this employer in good faith, and it just appears to me that every time we do that and we
4 accomplish what's being asked of our membership, we have yet another challenge put
5 before us. And that's becoming very frustrating -- not just to me, but my entire
6 membership, I can assure you.

7
8 COUNCIL PRESIDENT ANDREWS:

9 Well, the problem isn't just the operating budget, and the focus isn't just limited to the
10 effect. The goal is to save funds in the operating budget, but we also have to understand
11 what's the long-term impact, and the long-term impact varies a lot depending on how
12 many positions are refilled. And so, that's not really a question for you. It's really a
13 question for the Executive branch about what their intention is in terms of filling the
14 positions that people leave as a result of the retirement incentive program.

15
16 GINO RENNE:

17 No, I take issue with you. It is a question for me, as well, because this employer expects
18 my members to deliver services, and they can't do that with vacant positions. Unless
19 you're prepared to address this community and say emphatically that this government is
20 no longer going to provide this list of services, Mr. Andrews, the services have to continue.
21 We can't continue to play this smoke-and-mirrors game that we're going to cut here and
22 continue to deliver services. It doesn't work.

23
24 COUNCIL PRESIDENT ANDREWS:

25 Mr. Renne --

26
27 GINO RENNE:

28 And these are rational ways to lower budgets. It's done in the private sector every day, sir.

29
30 COUNCIL PRESIDENT ANDREWS:

31 One of the goals is to have the services delivered at a lower cost, as well.

32
33 GINO RENNE:

34 That's the point of the whole approach. Thank you. You just answered your own question.

35
36 COUNCIL PRESIDENT ANDREWS:

37 No. Mr. Renne, we'll have a longer discussion in committee on this.

38
39 GINO RENNE:

40 I'm sure we will.

April 14, 2009



1 COUNCIL PRESIDENT ANDREWS:

2 And we look forward to it, and you're -- I hope you will attend next Monday when the
3 Management and Fiscal Policy...

4
5 GINO RENNE:

6 I'm going to be here for the next three weeks.
7

8 COUNCIL PRESIDENT ANDREWS:

9 ...takes it up. Very good. But this report is an important report. It raises legitimate
10 questions about the current program for retirement buyouts and the policy, the program
11 that has been proposed for this coming fiscal year has a larger buyout of 40,000, versus
12 the one that was 25,000 for this year. And I want to ask the -- both parties for a response
13 about what are your assumptions about how many positions will be filled and -- and when,
14 because that will help us understand what the long-term costs are for the program.
15

16 JOSEPH ADLER:

17 And we will have -- we will have that information at the -- on Monday.
18

19 COUNCIL PRESIDENT ANDREWS:

20 Very good.
21

22 GINO RENNE:

23 Mr. Andrews, let me ask one question. That assumption is going to be hard to come up
24 with until we know if the Council is prepared to cut services or not. And you can't -- you
25 know, we have to wait for the budget process to end because you folks are the final level
26 of authority on what public services are maintained, cut, or changed. So that piece is very
27 crucial to that long-term assessment. Just so we don't --
28

29 COUNCIL PRESIDENT ANDREWS:

30 That's a fair point. In the current proposal -- in the current retirement incentive program, it
31 indicated that 64% of the positions were refilled and that 54 positions were abolished. So
32 that's the experience we have for this current year for the retirement incentive program
33 that was adopted this year, and that's described on the -- page four of the OLO report.
34 And the question I have for, again, for the folks at the table is, would you expect some
35 similar percentages, or is there reason to think that it might vary a lot from that? And I'd
36 appreciate your best estimate as to what you expect will occur with that regard. So that's a
37 question I have about the retirement incentive program. I also have a question, and this
38 regards one of the provisions that is in the agreement with the Fraternal Order of Police.
39 And that is the personal patrol vehicle policy, and if there is someone here who would like
40 to speak to that, you're welcome to join us at the table at the front. And this, I think, is a
41 terrible proposal. We have -- this is a proposal that would allow officers who live outside

April 14, 2009



1 the County, within 15 miles of the County, to have a personal patrol vehicle and to drive
2 the vehicle within that area. It would also allow officers that have a person patrol vehicle
3 that live inside the County to drive that vehicle up to 15 miles outside the County. And this
4 is 15 miles as the crow flies, not driving distances. It violates the idea that we want to
5 encourage people to live near where they work, it will subsidize long-distance commuting,
6 and it goes against the very policy that is the basis for having a personal patrol vehicle
7 program, which is to have to a police presence in our own community. And I support
8 having that. I think the personal patrol vehicle policy is a good policy for officers that live in
9 the County because we get the benefit of having an enhanced police presence by having
10 a take-home car policy for officers that live in the County. But we don't get that benefit
11 when officers live outside the County, and it's a very expensive program, as well. So I
12 think that this will undermine those policies of encouraging officers to stay in the County,
13 of having the benefit of having an enhanced police presence in our own community. This
14 is a policy that will serve to provide an outside-the-border patrol, or outside-the-border
15 presence, but we want the presence within our own border, not outside. And I know Mr.
16 Adler and other representatives are the messenger on this, and I'm not here to ask you to
17 defend, unless you want to. You can defend it if you want, but I don't think it's a defensible
18 policy in terms of these other goals that we have. How does this enhance police presence
19 in Montgomery County?

20
21 JOSEPH ADLER:

22 I'd rather -- I kind of got into the micro issue that, as I indicated earlier, these were
23 voluntary negotiations between the FOP and the County. There was nothing compelling
24 either MCGEO or FOP to come to the table. And in the course of collective bargaining,
25 there were some trade-offs between giving up to GWA and some of the other areas that
26 the FOP had asked for, and so this is a product of collective bargaining. And so we -- and
27 it was felt that also that there are some efficiencies. If there is an emergency and folks
28 need to come back, they don't need to go to getting their own car, go to parking, have all
29 their gear, go to an area where the cars are parked, switch everything, and then get into a
30 police car and come to wherever the emergency might be, that they could in fact, if they
31 are 15 miles or less outside the County, they will have a personal police vehicle that will
32 enable them to get there. So it's not automatically a one-way or a situation where there's
33 no benefit to the department. But again, the more overall issue is that this was -- is a
34 product of collective bargaining, and barring any -- barring an agreement, then -- the
35 County Executive and then the County Council make the determination, but the County
36 Executive then would be obligated to fund or to put in the budget somewhere in the
37 neighborhood of \$5 million, or close to \$5 million, for the GWAs for FOP membership. And
38 as a result of cutting that, this is one of the agreements that we made.

April 14, 2009



1 COUNCIL PRESIDENT ANDREWS:

2 Look, I said earlier this morning -- I'll say it again -- that I applaud our employees for
3 recognizing that this is a year where cost-of-living adjustments are not affordable. And I
4 commend the County employees, I commend the police employees, I commend the
5 school employees who all agreed to forgo cost-of-living adjustments. However, I don't
6 think that the trade-off for that should be the adoption of policies we would never consider
7 adopting and that undermine other important goals. I don't think that's an acceptable
8 trade-off, and we are going to see cuts in services to residents, whether they're transit,
9 whether they're library users, whether they're Recreation Department users, and we're not
10 going to be giving them something in return. And this is a policy that makes no sense. It
11 would never -- it wouldn't have a chance of passing if it came over here by itself. When
12 Fairfax County went to a liberal on-call policy, they saw a substantial decline in the
13 number of officers that continued to live in the County. And we have a substantial majority
14 of police officers that currently do live in the County, and I don't think that's going to
15 continue to be the case if we have this kind of incentive for people to live outside the
16 County. I will turn to my colleagues if they have questions. I see Councilmember Knapp
17 has a question or comment.

18
19 COUNCILMEMBER KNAPP:

20 Mr. President, I just had -- I was curious. Are we -- is it -- are we having action on this
21 today?

22
23 COUNCIL PRESIDENT ANDREWS:

24 No. This is a public hearing. This is a chance to have some back-and-forth, though, while
25 we have people here.

26
27 COUNCILMEMBER KNAPP:

28 Well, no, I just was curious because typically we get into this level of detail when we
29 actually have our committee discussions and full Council discussions. And I think that the
30 points you raised are fine, just not typically something we do when -- we don't typically
31 debate witnesses during the middle of a public hearing like this, and it just seems it little
32 out of order, that's all.

33
34 COUNCIL PRESIDENT ANDREWS:

35 So noted. Councilmember Leventhal.

36
37 COUNCILMEMBER LEVENTHAL:

38 Yeah, I also, in the Council President's last set of remarks, didn't actually detect a
39 question. Did I miss it?

April 14, 2009



1 COUNCIL PRESIDENT ANDREWS:

2 Well, the question I'm asking is, why is this good public policy?

4 COUNCILMEMBER LEVENTHAL:

5 Well, I guess my question for the Council President would be, is it the Council President's
6 intention to agree to every concession and commend every concession on one side and
7 then give speeches against at every opportunity every concession made by the other
8 side? Is this the precursor to what we're in for now?

10 COUNCIL PRESIDENT ANDREWS:

11 No.

13 COUNCILMEMBER LEVENTHAL:

14 So are we going to take apart every single agreement and applaud those concessions
15 made by the workers and then criticize those concessions made by the County? Are we
16 laying the groundwork -- is that what we should get used to?

18 COUNCIL PRESIDENT ANDREWS:

19 It is the Council's obligation to look at all proposals that come over that require funding,
20 and this will require a lot of funding, to see if it makes sense. And if a proposal in a
21 collective bargaining agreement requires the Council to jump off a bridge, we shouldn't do
22 so because it's in a collective bargaining agreement. We have to look at the proposals to
23 see if they make sense, and this makes no sense.

25 COUNCILMEMBER LEVENTHAL:

26 And if we were to vote down every collective bargaining agreement that came before us,
27 does the Council President think there would be consequences to that?

29 COUNCIL PRESIDENT ANDREWS:

30 I think that the Council has to look at whether a agreement is satisfactory and meets the
31 public interest test. I think there's no symmetry here, and that this is a -- this is not a one-
32 year proposed change in the policy. This is a permanent change. We're looking at an
33 agreement that has a one-year elimination of the cost-of-living adjustment, but this is a
34 permanent change in the policy on take-home cars that I think will undermine public safety
35 in this County, and that's why I think it's something that stands out. And I haven't
36 commented on all the different policies, different proposals. Some of the them, I wouldn't
37 have put in there myself, but they may be acceptable in the context. I don't think this
38 particular change is acceptable under any conditions.

April 14, 2009



1 COUNCILMEMBER LEVENTHAL:

2 OK, so just to be clear, we are using this public hearing to state our views, not really to
3 ask questions of witnesses.

4
5 COUNCIL PRESIDENT ANDREWS:

6 I asked a question. You asked me what my question was, and I will ask it again, and if the
7 folks at the table prefer to elaborate more at the committee session, they are welcome to
8 do so, but the question I have is, why is this -- how is this good public policy? That's the
9 question I have, and I look forward to hearing whatever answer people would like to
10 provide.

11
12 JOSEPH ADLER:

13 I believe we answered that earlier, but I will just say that it was in the context of collective
14 bargaining. The overall savings to the County far outweigh whatever the cost of this
15 proposal might be.

16
17 COUNCIL PRESIDENT ANDREWS:

18 What is your estimated cost for this proposal?

19
20 JOSEPH ADLER:

21 I'll turn it over to Mr. Espinosa.

22
23 ALEXANDRE ESPINOSA:

24 The Executive included \$237,000 in his proposed budget related to this specific provision.

25
26 COUNCIL PRESIDENT ANDREWS:

27 And what's the -- all right. I would like you to provide, for the committee meeting, the
28 assumptions behind that estimate.

29
30 ALEXANDRE ESPINOSA:

31 Well, I can respond to that.

32
33 COUNCIL PRESIDENT ANDREWS:

34 OK. You can provide it now if you want.

35
36 ALEXANDRE ESPINOSA:

37 It's a placeholder amount the Executive is recommending. It's something that's going to
38 be monitored when it goes into practice and implementation for actual change in behavior,
39 additional mileage, as stated in our response to Council staff questions.. It really depends
40 on what actually happens out in the field, and we'll be monitoring that and come back with
41 information as we receive the actual information.

April 14, 2009



1 COUNCIL PRESIDENT ANDREWS:

2 Well, we need to know what the assumptions are that cause you to use that as your
3 estimate. So if you can provide the assumptions that are behind it that for the committee
4 meeting, that would be helpful.

5
6 ALEXANDRE ESPINOSA:

7 To the extent that there are any beyond what I've already responded to, we can do that.

8
9 COUNCIL PRESIDENT ANDREWS:

10 Well, I hope there's more detail than that. Thank you. Councilmember Leventhal, are you
11 still on --

12
13 COUNCILMEMBER LEVENTHAL:

14 No.

15
16 COUNCIL PRESIDENT ANDREWS:

17 Councilmember Knapp.

18
19 COUNCILMEMBER KNAPP:

20 Well, I appreciate the question -- I guess it's been asked. I just -- I'm -- on behalf of the
21 rest of the Council, since we have not had the benefit of any staff analysis. We haven't
22 looked at a packet. I appreciate that this is an issue that is of interest to the Council
23 President, but I look forward to us actually being able to have a fully informed discussion
24 when this actually comes before the committee and back before the full Council. I'm not
25 sure that this kind of back-and-forth between the witnesses and Council President during
26 a public hearing is really benefiting any of us at this point in time, but it'll be helpful once
27 we actually have the staff analysis and the information in front of us. We can actually have
28 an informed discussion, and I look forward to that point.

29
30 COUNCIL PRESIDENT ANDREWS:

31 Well, I've laid out several questions that I hope we will have more information on for the
32 MFP committee meeting next week. Councilmember Floreen.

33
34 COUNCILMEMBER FLOREEN:

35 Thank you. Well, I don't have a question, but I do have a comment, which is, the challenge
36 of this is taking things out of context. Not having sat at the table, not having been informed
37 of all the various pieces that are part of any negotiation, I think it's misleading of any of us
38 to suggest that one piece of this puzzle informs the collective decision, because there are
39 many pieces -- and many pieces that aren't before us, many pieces that may have been
40 put forward and then withdrawn, negotiated down. And I just point that I think it's very
41 dangerous to try to pick something apart without understanding the full context. And

April 14, 2009



1 unless we reject the whole -- whole agreement -- maybe, perhaps, that's the direction that
2 some people wish to -- wish to undertake. You send -- one sends a message to the public
3 that there are things before us that really aren't before us, and I think that is a troublesome
4 approach and not very productive.

5
6 COUNCIL PRESIDENT ANDREWS:

7 My response would be that of course they're before us. It's our job to decide whether
8 we're going to fund it or not. Any appropriation request requires Council action and
9 approval. Any change in a law requires Council approval. So these items that require
10 either funding or legislative change are before us, and it's up to the Council to decide if it's
11 in the public interest or not. It's our job. That's what we are here for. All right. Thank you
12 all very much. That concludes the public hearing on the collective bargaining agreements.
13 We do have one other public hearing, which Mr. Adler addressed in his remarks from this
14 one, that is still a separate public hearing. We do have one speaker on that one. So, Mr.
15 Adler, you can stay or go, unless you have something else you want to say on the
16 retirement incentive program. [PAUSE] Good afternoon, ladies and gentlemen. This is a
17 public hearing on Expedited Bill 10-09, Personnel - Retirement Incentive Program that
18 would provide a retirement incentive program to certain members of the Employees'
19 Retirement System and generally amend the law regarding the Employees' Retirement
20 System. Persons wishing to submit additional material for the Council's consideration
21 should do so before the close of business Thursday, April 16, 2009. A Management and
22 Fiscal Policy Committee worksession is tentatively scheduled for Monday, April 20, at 9:30
23 A.M. Please call 240-777-7900 for information. The speaker that we have signed up for
24 this hearing is John McCarthy, our State's Attorney. Good afternoon, Mr. McCarthy.
25 Please remember to press the button and introduce yourself. And please introduce the --
26 your colleagues as well.

27
28 JOHN McCARTHY:

29 Should the light go on?
30

31 COUNCIL PRESIDENT ANDREWS:

32 The light -- you're good. You're good.
33

34 JOHN McCARTHY:

35 Good afternoon. Hopefully, I will be brief and be gone. I'm here today -- This is John
36 McCarthy. I'm the State's Attorney for Montgomery County. Good afternoon, Mr. President
37 and members of the County Council. It's a pleasure to be here. I'm here with Kathy Swick,
38 a longtime employee of the State's Attorney's office who is the business manager and
39 office manager of the State's Attorney's office, and David Baker, who I think many of you
40 are familiar with, who has for many years been our budget -- internal budget director in my
41 office. I am here talking about the retirement incentive program that we were just talking

April 14, 2009



1 about collectively as we sat here through the hearing, and I am here on behalf of some of
2 my employees. This is not something in which I am personally interested in participating,
3 hoping to stay a State's Attorney for a little bit longer, but may I say I have a number of
4 members of my office -- six -- who have actually come to me who are longtime members
5 of the State's Attorney's office -- some, again, who have served members of this County
6 for more than 30 years, who are interested in participating if the program does in fact go
7 forward -- would be interested in participating in the retirement incentive program. The
8 reason I'm here that we had gotten on behalf -- and I feel a certain loyalty to the men and
9 women of my staff, who have worked long and hard for the members of this community.
10 We had gotten some mixed messages at various points in time as to whether or not, if this
11 program does in fact go forward, whether or not the members of my office would be
12 allowed to participate in it. May I say, I understand Mr. Firestine has sent over something
13 from the County Executive's office indicating that he supports our office being considered.
14 And I have provided to the members of the Council, and I would invite the members of the
15 Council's attention to, a criminal procedure article, which 15-416, which out of the
16 Annotated Code of Maryland. And the reason I bring this to you is because this is a code
17 section of Maryland state law that governs Montgomery County's obligations to the
18 employees of the State's Attorney's office, and specifically I'm referring to, in 15-416,
19 subsection c, 2 -- bracketed 2 -- subsection 2, and basically it states that an Assistant
20 State's Attorney as well as a Deputy State's Attorney are entitled to the same benefits as
21 County employees under the merit system. It is the state -- my position, representing the
22 men and women who work for the State's Attorney's office, that they are covered by a
23 state statute that if there is -- and again, I understand that these are the determinations
24 that the Council is going to have to make as to whether you go forward with the program --
25 but I just wanted to state for the record that -- and I think it's a long-term interest of the
26 people in my office to understand while they are not merit employees because they serve
27 as the, I guess, the good will of the State's Attorney, and they have my good will, they are
28 entitled to the benefits of the merit employees. That's what the law provides them. I would
29 say to you that if the six people who currently have come to us and indicated that they
30 wanted to retire from the County system, their current cost to the County this year is
31 \$697,500. \$697,500. If we replace them with entry-level employees in the same positions
32 -- answering a question you asked before, Mr. Andrews, we do not see ourselves as
33 eliminating these positions, but entry-level people in those same positions would cost the
34 County \$334,323. And the difference would be a savings of \$363,177, if those people are
35 allowed to retire and we replace them with entry-level individuals. That would be the first-
36 year savings. I have not read the report that has been somewhat discussed widely here in
37 the last few minutes, so I cannot address any questions related to the Office of Legislative
38 Oversight's conclusions as to what the financial benefits long-term for the County are. I
39 would raise one following, issue, and I have nothing else to say about it, is that it was
40 suggested that if this was extended to my office, that we would be anticipated -- that what
41 is anticipated that from our own operating budget, we would have to cover the \$40,000



April 14, 2009

1 cost of retiring. In other words, it would come out of my own operating budget. Point being
2 that if six people retired, Mr. McCarthy, you can do that, but you got to come up with
3 \$240,000 to fund that. I only had an issue -- and again, this goes back to fairness -- are
4 the other agencies to which the program is being offered, are they be given that same
5 direction? If they are, we'll live with it, and I still think there's a savings of \$123,000 for the
6 people of Montgomery County, but I raise the issue of, are other agencies also being
7 expected to fund the \$40,000 incentive out of their current operating budget? I've gotten
8 some indication that I would be expected to do that, if we were included.

9
10 COUNCIL PRESIDENT ANDREWS:

11 OK. Thank you for your testimony. We'll -- we'll check your question out. That's a good
12 question. Did you have your light on? No. OK. All right. Councilmember Leventhal?

13
14 COUNCILMEMBER LEVENTHAL:

15 Yeah. I seem to be having a little trouble requesting to speak.

16
17 COUNCIL PRESIDENT ANDREWS:

18 OK, here. Try it again.

19
20 COUNCILMEMBER LEVENTHAL:

21 OK.

22
23 COUNCIL PRESIDENT ANDREWS:

24 There you go.

25
26 COUNCILMEMBER LEVENTHAL:

27 OK. So... John, good to see you.

28
29 JOHN McCARTHY:

30 How are you? Nice to see you.

31
32 COUNCILMEMBER LEVENTHAL:

33 Thanks for coming to see us this afternoon. It sounds like you've been listening to your
34 employees, and you're trying to respond to what they've asked you for.

35
36 JOHN McCARTHY:

37 I try to do that every day because I think they serve the people of this County very well.

38
39 COUNCILMEMBER LEVENTHAL:

40 You consider that a good management practice, to listen to employees and, to the extent
41 you can, respond to what they ask you for?



April 14, 2009

1 JOHN McCARTHY:

2 I think I'm trying to be sucked into something here I may not want to be sucked into. I do --
3 within my own office, I try to make it a practice to work very closely with my employees.

4
5 COUNCILMEMBER LEVENTHAL:

6 Appreciate you being here, John. Good to see you.

7
8 JOHN McCARTHY:

9 Thank you.

10
11 COUNCIL PRESIDENT ANDREWS:

12 Thank you, Mr. McCarthy. Good to see you, as always.

13
14 JOHN McCARTHY:

15 Mr. Andrews, it was great to see you.

16
17 COUNCIL PRESIDENT ANDREWS:

18 We'll see you soon. All right. That concludes this public hearing. We have one more, and
19 then we'll move on to our committee sessions. As soon as I find the third packet. [PAUSE]
20 OK. Here it is. I have found it. OK. I've got it. Yes. 15 -- Item 15 is the third public hearing,
21 and then we have action following on that. Good afternoon, ladies and gentlemen. This is
22 a public hearing on a supplemental appropriation to the County government's FY09
23 operating budget for Montgomery County Fire and Rescue service -- \$500,000 for Urban
24 Security Initiative mass casualty support unit supplies grant award. Action is scheduled
25 immediately following the hearing, and I don't believe that we have -- Chief Bowers, are
26 you here to testify on this? Just to support it. OK. All right. This is Item 15 in the packet. It
27 is a supplemental appropriation. The source is a federal grant. It would provide \$500,000
28 to purchase medical supplies and equipment for the National Capital Region's mass
29 casualty support vehicles, which were purchased previously with UASI funds. No County
30 matching funds are required. And it's going directly to Council action because of those
31 circumstances. So there are no speakers. The public hearing is closed. Is there a motion
32 to approve the supplemental appropriation?

33
34 COUNCILMEMBER FLOREEN:

35 I'll move approval.

36
37 COUNCILMEMBER ERVIN:

38 Second.

April 14, 2009



1 COUNCIL PRESIDENT ANDREWS:

2 Moved by Councilmember Floreen. Seconded by Councilmember Ervin. Is there any
3 discussion? Seeing no discussion, all those in favor of the supplemental appropriation of
4 \$500,000 for the Urban Areas Security Initiative mass casualty support unit medical
5 supplies grant award, please raise your hand. Councilmember Elrich, Councilmember
6 Floreen, myself, Councilmember Knapp, Councilmember Ervin, and Councilmember
7 Leventhal. The supplemental appropriation is approved, 6-0, and that concludes the
8 Council's business this afternoon. Committees are now going to meet, and then the
9 Council will be back this evening at 7:00 for its next public hearing on the operating
10 budget. Councilmember Knapp.

11
12 COUNCILMEMBER KNAPP:

13 Mr. President, the PHED Committee will meet directly in the seventh floor. We'll go right
14 up right now. Thank you.

15
16 COUNCIL PRESIDENT ANDREWS:

17 OK. And Councilmember Ervin, I think you're going to be starting off the meeting of the
18 Management and Fiscal Policy Committee?

19
20 COUNCILMEMBER ERVIN:

21 Am I the only one there?

22
23 COUNCIL PRESIDENT ANDREWS:

24 No, it'll be the two of us. But...

25
26 COUNCILMEMBER FLOREEN:

27 Ought to be fast one.

28
29 COUNCIL PRESIDENT ANDREWS:

30 But do you recall the location...